Laws and Resolutions

OF THE

STATE OF MONTANA

PASSED BY THE

Forty-second Legislative Assembly
In Regular and Extraordinary Sessions

Held at Helena, the Seat of Government of Said State,
Regular Session
January 4, 1971 to March 4, 1971
First Extraordinary Session*
March 8, 1971 to April 3, 1971
***Second Extraordinary Session Called for June 7, 1971**
June 25, 1971

PUBLISHED BY AUTHORITY

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3

HeinOnline -- 1971 vol. I i 1971

Certificate of Authentication

State of Montana
Department of
Secretary of State } ss.

I, Frank Murray, Secretary of State of the State of Montana, do hereby certify that by virtue of the authority vested in me by law I have prepared for publication and caused to be printed a copy of all laws, resolutions and appropriation measures passed by the Forty-second Legislative Assembly of the State of Montana, at the Forty-second regular Session commencing January 4, 1971, and concluding March 4, 1971; the first Extraordinary Session of the Forty-second Legislative Assembly commencing March 8, 1971 and concluding April 3, 1971 and the second Extraordinary Session of the Forty-Second Legislative Assembly commencing June 7, 1971 and concluding June 25, 1971; that I have caused to be compared the said printed laws, resolutions and appropriation measures with true copies of the original manuscript thereof now on file in my office, and that the following are true, full and correct copies thereof, including the constitutional amendments and referendum measure adopted by the people of Montana at the general election held in the State of Montana November 2, 1970.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Montana, at Helena, the Seat of Government, this 28th day of June, 1971.

Frank Murray

Secretary of State.

HeinOnline -- 1971 vol. I iii 1971

OFFICERS AND MEMBERS

OF THE

Forty-second Legislative Assembly of the State of Montana

1971

FORREST H. ANDERSON, Governor

Thomas L. Judge, Lieutenant Governor, President of the Senate
William F. Hafferman, President Protem of the Senate
Stanley Nees, President Pro Tem (Ad Interim)
James P. Lucas, Speaker of the House

Members of the Senate

NAME	DIST. NO.	RESIDENCE OR MAILING ADDRESS	COUNTY OF RESIDENCE	POLITICS
Bennett, W. F.	30	Box 100, Columbia Falls 59912	Flathead	Republican
Bertsche, Wm. H.	18	1917 4th Ave. N., Gt. Falls 59401	Cascade	Democrat
*Bollinger, Gordon E.	5	217 Klein Ave. N., Glasgow 59230	Valley	Democrat
*Boylan, Paul F.	15	Star Rte., Bozeman 59715	Gallatin	Democrat
*Broeder, Fred O.	30	Rt. 4, Kalispell 59901	Flathead	Republican
1. *Brownfield, Ben	2	Box 1364, Glendive 59330	Dawson	Republican
Carl, Fred G.	26	Box 477, Missoula 59801	Missoula	Republican
*Cochrane, Archie M.	9	2958 Upper Highwood, Billings 59102	Yellowstone	Republican
Cotton, Robert S.	5	Box 27, Glasgow 59230	Valley	Democrat
*Deschamps, G. W. "Por"	26	Rt. 2, Missoula 59801	Missoula	Republican
*DeWolfe, Percy	29	Browning 59417	Glacier	Democrat
Drake, Glen L.	21	Power Block Annex, Helena 59601	Lewis & Clark	Republican
*Dzivi, Dick	18	G.F. Nat'l Bk. Bldg., Gt. Falls 59401	Cascade	Democrat
Flynn, Elmer	26	Rt. 2, Mullan Rd., Missoula 59801	Missoula	Democrat
Gilfeather, P. J.	18	2816 4th Ave. So., Gt. Falls 59401	Cascade	Democrat
*Goodheart, B. J. "Swede"	10	Box 1013, Malta 59538	Phillips	Democrat
Graham, Carroll A.	8	Lodge Grass 59050	Big Horn	Democrat
Groff, W. A. "Bill"	25	Box 46, Victor 59875	Ravalli	Democrat
*Hafferman, William F.	31	Route 3, Box 1274, Libby 59923	Lincoln	Democrat
Hanks, Virgil	15	Star Route, Gallatin Gateway 59730	Gallatin	Democrat
Hazelbaker, Frank W.	24	Box 430, Dillon 59725	Beaverhead	Republican
*Hibbard, Henry S.	21	618 Madison, Helena 59601	Lewis & Clark	Republican
James, David F.	19	Box 221, Joplin 59531	Liberty	Democrat
Keenan, P. J.	22	1112 E. 5th St., Anaconda 59711	Deer Lodge	Democrat
Klindt, Herbert J.	9	402 Alderson Ave., Billings 59102	Yellowstone	Republican
Lowe, William R. "Bill"	9	1008 Poly Drive, Billings 59102	Yellowstone	Republican
*Lynch, Neil J.	23	421 Medical Arts Bldg., Butte 59701	Silver Bow	Democrat
*Lyon, John	20	KSEN Radio, Shelby 59474	Toole	Republican
Mackay, William R.	13	Roscoe 59071	Carbon	Republican
*Manning, Dave M.	6	Hysham 59038	Treasure	Democrat
*Mathers, William L.	7	Box 267, Miles City 59301	Custer	Republican
McCallum, George	27	Niarada 59852	Sanders	Republican
*McDonald, John K. (Jack)	18	Belt 59412	Cascade	Democrat
McGowan, Gordon	17	Highwood 59450	Chouteau	Democrat
*McKeon, John L. (Luke)	22	316 E. 7th, Anaconda 59711	Deer Lodge	Democrat
McOmber, Gordon	20	Fairfield 59436	Teton	Democrat
*Mitchell, Harry B.	18	c/o Ayrshire Dairy, Gt. Falls 59401	Cascade	Democrat
*Moore, Jim	12	Two Dot 59085	Wheatland	Republican
Moritz, Earl	11	1024 West Evelyn, Lewistown 59457	Fergus	Republican
*Nees, Stanley	4	Poplar 59255	Roosevelt	Democrat
*Northey, Harry T.	26	514 Daly, Missoula 59801	Missoula	Republican
*Reardon, Frank D.	23	801 Maryland, Butte 59701	Silver Bow	Democrat
5. *Rehberg, Jack D.	9	2317 Rehberg Lane, Billings 59102	Yellowstone	Republican
Rosell, Antoinette Fraser	9	4200 Rimrock Rd., Billings 59102	Yellowstone	Republican
*Rostad, Carl	16	Loweth Rt., Martinsdale 59053	Meagher	Republican
Rugg, Glen T.	1	Box 188, Plevna 59344	Fallon	Republican
Shea, James R. "Jimmy"	23	604 W. Daly St., Walkerville 59701	Silver Bow	Democrat
*Sheehy, John C.	9	1041 Poly Dr., Billings 59102	Yellowstone	Democrat
Siderius, George	30	c/o Somer's Stage, Kalispell 59901	Flathead	Democrat
Sorensen, C. F. (Smoky)	18	#9 Brookwood Park, Rt. 1 S., Gt. Falls 59401	Cascade	Democrat
Stein, Ben H.	14	Wilsall 59086	Park	Republican
*Stephens, Stan	19	33 Beaver Creek Blvd., Havre 59501	Hill	Republican
*Thiessen, Cornie R.	3	Box 195, Lambert 59243	Richland	Democrat
Turnage, Jean A.	28	Box 450, Polson 59860	Lake	Republican
Vainio, Leonard E.	23	1701 Grand Ave., Butte 59701	Silver Bow	Democrat

*Holdover, term expires 1973; all other Senators four-year terms.

1. *Hughes, Thomas W., Dist. 2, 311 Sigmund St., Glendive 59330, Dawson, Republican, appointed May 10, 1971 to succeed the Honorable Ben Brownfield, deceased. Term expires 1973.

5. *Porter, Howard C., Dist. 9, 2412 A St., Billings 59102, Yellowstone, Republican, appointed July 9, 1971 to succeed the Honorable Jack D. Rehberg, resigned. Term expires 1973.

HeinOnline -- 1971 vol. I v 1971

House of Representatives

NAME	DIST. NO.	RESIDENCE OR MAILING ADDRESS	COUNTY OF RESIDENCE	POLITICS
Aber, L. M. (Larry)	13	228 E. 3rd Ave. Columbus 59019	Stillwater	Republican
Ainsworth, A. L. (Bud)	26	4111 Timberlane, Missoula 59801	Missoula	Republican
Anderson, Robert M.	17	Box 673, Fort Benton 59442	Chouteau	Democrat
Asbjornson, J. O. "Boots"	11	Winifred 59489	Fergus	Republican
Aspevig, LeRoy "Bud"	19	Box 151, Rudyard 59540	Hill	Democrat
Baeth, William R. (Bill)	31	805 Minnesota Ave., Libby 59923	Lincoln	Democrat
Bardanouve, Francis	10B	Harlem 59526	Blaine	Democrat
Bennett, George T.	21	11 Edwards St., Helena 59601	Lewis & Clark	Republican
Bradley, Dorothy	15	1105 So. Tracy, Bozeman 59715	Gallatin	Democrat
Brand, Joe	22A	800 Montana Ave., Deer Lodge 59722	Powell	Democrat
Brown, Robert J.	30	Rt. #1, Whitefish 59937	Flathead	Republican
Burnett, James H. "Jim"	13	Luther 59051	Carbon	Republican
Campbell, William R. "Lefty"	26	620 Crestline Dr., Missoula 59801	Missoula	Republican
Christiansen, Bill	8	310 N. Crow., Hardin 59034	Big Horn	Democrat
Clemow, Tom	24A	Jackson 59736	Beaverhead	Republican
Cox, Henry S. "Hank"	9	1439 Colton Blvd., Billings 59102	Yellowstone	Republican
Darrow, George	9	Box 2001, Billings 59101	Yellowstone	Republican
Devine, John W. (Jack)	18	Park Garden Lane, Gt. Falls 59401	Cascade	Democrat
Dye, Robert F.	15	610 So. Willson Ave., Bozeman 59715	Gallatin	Republican
East, Vic	6	Box 83, Forsyth 59327	Rosebud	Republican
Edland, Wallace B.	5B	Box 98, Scobey 59263	Daniels	Democrat
Eggebrecht, Ralph F.	4	320 Edgar St., Wolf Point 59201	Roosevelt	Democrat
Ellerd, Robert A.	15	2206 Bridger Dr., Bozeman 59715	Gallatin	Republican
Fagg, Harrison G.	9	1414 Mystic Drive, Billings 59102	Yellowstone	Republican
Falkenstern, Arnold H.	1	Box 607, Terry 59349	Prairie	Republican
Fasbender, Larry	18	Rt. 1, Box 23, Fort Shaw 59443	Cascade	Democrat
2. Fitzgarrald, Jack E.	25	Box 195, Stevensville 59870	Ravalli	Republican
Fleming, James F., Jr.	28	Box 116, Pablo 59855	Lake	Democrat
Forester, Dick	9	439 Grandview Blvd., Billings	Yellowstone	Republican
Gerke, Harold E.	9	202 Mountain View Blvd., Billings 59101	Yellowstone	Democrat
Giesick, Gary	9	Rt. 4, Central, Billings 59102	Yellowstone	Republican
Glennen, Robert E.	9	1226 Yale, Billings 59102	Yellowstone	Republican
Greely, Michael T.	18	409 Strain Bldg., Gt. Falls 59401	Cascade	Democrat
Gunderson, Jack	18	Power 59468	Cascade	Democrat
Haines, Tom	26	15 Martha's Court, Missoula 59801	Missoula	Republican
Hall, John C.	18	1020 3rd Ave. No., Gt. Falls 59401	Cascade	Democrat
Harper, Robert J. "Bob"	23	68 Missoula Ave., Butte 59701	Silver Bow	Democrat
Harrison, James T., Jr.	21	820 No. Montana Ave., Helena 59601	Lewis & Clark	Republican
Healy, John E. (Jack)	23	624 W. Granite St., Butte 59701	Silver Bow	Democrat
Hemstad, Nels	20C	Dutton 59433	Teton	Republican
Himsl, Matt	30	305 4th Ave. E., Kalispell 59901	Flathead	Republican
Hodges, William C.	18	106 25th St. No., Gt. Falls 59401	Cascade	Democrat
Jackson, Peter V.	24B	Box 86, Harrison 59735	Madison	Democrat
Johnston, George R.	29	504 3rd St. SE, Cut Bank 59427	Glacier	Democrat
Keller, M. F.	18	509 2nd Ave. No., Gt. Falls 59401	Cascade	Republican
Kendall, Orin P.	27	Box 563, Thompson Falls 59873	Sanders	Democrat
Knudsen, D. L. "Ike"	5B	Box 1127, Glasgow 59230	Valley	Democrat
Kolstad, Allen C.	19	Box 648, Chester 59522	Liberty	Republican
Kosena, Albert E.	22B	106 N. Main, Anaconda 59711	Deer Lodge	Democrat
Kvaalen, Oscar S.	3	Lambert 59243	Richland	Republican
Laas, Walter	19	Chester 59522	Liberty	Democrat
Lanthorn, Bruce W.	21	5180 Kerr Ln., Helena 59601	Lewis & Clark	Republican
Lee, Robert E. (Bob)	23	1945 Florida Ave., Butte 59701	Silver Bow	Democrat
Lien, Orphey "Bud"	4	Box 666, Poplar 59255	Roosevelt	Democrat
Lockrem, Lloyd C., Jr.	9	3109 Edmond St., Billings 59102	Yellowstone	Republican
Lockwood, R. M. (Monte)	15	1207 E. Curtiss, Bozeman 59715	Gallatin	Republican
Lombardi, Jerry V.	23	947 Waukesha, Butte 59701	Silver Bow	Democrat
Lucas, James P.	7	1920 Sudlow, Miles City 59301	Custer	Republican
Lund, Art	5B	Scobey 59263	Daniels	Republican
Lundgren, Conrad F.	30	844 Woodland Ave., Kalispell 59901	Flathead	Republican
Lynch, John "J.D."	23	527 W. Mercury, Butte 59701	Silver Bow	Democrat
McGrath, Harold	23	640 So. Montana, Butte 59701	Silver Bow	Democrat
McKittrick, Pat	18	4039 Ella Ave., Gt. Falls 59401	Cascade	Democrat
McNamer, Hugh F.	29	Box 685, Cut Bank 59427	Glacier	Republican
Marbut, Gary R.	26	Grant Creek, Missoula 59801	Missoula	Republican
Marks, Robert L.	16	Box 116, Clancy 59634	Jefferson	Republican
Mather, W. S. (Bill)	9	2031 Pryor Ln., Billings 59102	Yellowstone	Republican
Mehrens, John (Sandy)	22B	206 Evergreen, Anaconda 59711	Deer Lodge	Democrat
Menahan, William "Red"	22B	1304 W. 5th, Anaconda 59711	Deer Lodge	Democrat
Murphy, James E.	30	604 Woodland, Kalispell 59901	Flathead	Republican
Murphy, Terry L.	16	Cardwell 59721	Jefferson	Democrat
Nichols, Norris	25	Rt. 2, Stevensville 59870	Ravalli	Republican
Norman, Bill	26	440 Connell, Missoula 59801	Missoula	Democrat
Olson, S. A.	2	Glendive Medical Center, Glendive 59330	Dawson	Republican
Parrish, Bradley B. (Brad)	11	103 Hillcrest Dr., Lewistown 59457	Fergus	Democrat
Patrick, Chase	21	714 6th Ave., Helena 59601	Lewis & Clark	Republican
3. Perry, Louis	10A	Box 178, Malta 59538	Phillips	Republican
4. Pierce, John H.	9	1312 Parkhill Dr., Billings 59102	Yellowstone	Republican
Prevost, Robert C.	3	Lambert 59243	Richland	Democrat
Quilici, Joe	23	3040 Kossuth, Butte 59701	Silver Bow	Democrat

HeinOnline -- 1971 vol. I vi 1971

HOUSE OF REPRESENTATIVES—(Continued)

Robbins, Hershel M.	12A	915 1st St. E., Roundup 59072	Musselshell	Democrat
Schoonover, Leland	28	Box 941, Polson 59860	Lake	Democrat
Scott, Jeffrey J.	9	194 Mountain View Blvd., Billings 59101	Yellowstone	Republican
Selstad, Tom	18	133 29th Ave. NW, Gt. Falls 59401	Cascade	Republican
Shelden, Arthur H.	31	Rt. 1, Box 1650, Libby 59923	Lincoln	Democrat
Smith, Carl M.	8	Olive 59343	Powder River	Republican
Smith, Ed. B.	5A	Dagmar 59219	Sheridan	Republican
Snortland, Everett M.	20B	207 So. Colorado, Conrad 59425	Pondera	Republican
Spilde, Gene	12B	Box 298, Big Timber 59011	Sweet Grass	Republican
Staigmiller, John B.	18	Box 422, Cascade 59421	Cascade	Democrat
Sverdsten, Dale	27	Box 425, Superior 59872	Mineral	Republican
Swan, Miles L.	17	Highwood 59450	Chouteau	Republican
Swanberg, Gorham E.	18	Box 2567, Gt. Falls 59401	Cascade	Democrat
Towe, Thomas E.	9	2640 Burlington Ave., Billings 59102	Yellowstone	Democrat
Ulmer, Walter J.	7	121 So. Merriam Ave., Miles City 59301	Custer	Republican
Warfield, Bill	14	Hoffman Rt., Livingston 59047	Park	Republican
Watt, Robert D.	26	451 Kensington Ave., Missoula 59801	Missoula	Democrat
Weeding, Cecil F.	6	Box 78, Jordan 59337	Garfield	Democrat
Whitney, Earl	1	Box 291, Ekalaka 59324	Carter	Republican
Wolf, Kenneth M.	20A	1126 2nd St. S., Shelby 59474	Toole	Republican
Worden, H. O. (Bill)	26	208 Pattee Canyon Drive, Missoula 59801	Missoula	Republican
Yardley, Dan	14	Box 482, Livingston 59047	Park	Democrat
Zimmer, William H.	30	Box 67, Olney 59927	Flathead	Democrat
Zody, A. A.	2	503 S. Pearson Ave., Glendive 59330	Dawson	Democrat

2. Thomas, Robert J., Dist. 25, Box 111, Stevensville 59870, Ravalli, Republican, appointed June 2, 1971 to succeed the Honorable Jack E. Fitzgarrald, deceased.

3. Kropp, Paul K., Dist. 10A, Box 520, Malta 59538, Phillips, Republican, appointed April 1, 1971 to succeed the Honorable Louis Perry, resigned.

4. Nelstead, Keith T., Dist. 9, 2941 Miles Ave., Billings 59102, Yellowstone, Republican, appointed January 13, 1971 to succeed the Honorable John H. Pierce, deceased.

HeinOnline -- 1971 vol. I vii 1971

CONTENTS

Chap.	Senate Bill	House Bill	Title	Page
1		2	An act relating to the organization and procedures of the Forty-second Legislative Assembly; prescribing the duties and compensation of legislative employees; and specifying an effective date.	1
2	2		An act to be known as the Montana higher education code for the codification and revision of the laws pertaining to higher education, including the Montana university system; repealing Sections 75-107, 75-108, 75-109, 75-216 through 75-223, 75-301 through 75-314, 75-401 through 75-416, 75-501 through 75-515, 75-601 through 75-611, 75-701 through 75-738, 75-801 through 75-811, 75-901 through 75-907, 75-1001 through 75-1006, 75-1101 through 75-1104, 75-1201.1, 75-2014, 75-4707, R.C.M., 1947; providing a severability clause and providing the effective date of this act.	6
3	6		An act to authorize and direct the attorney general of Montana on behalf of the legislative assembly and the Secretary of State of Montana to institute a declaratory judgment proceeding under the Montana uniform declaratory judgment act (Title 93, Chapter 89, R.C.M., 1947) in the Montana Supreme Court under Rule 17 of the Montana Rules of Appellate Civil Procedure (Section 93-3001, R.C.M., 1947) to determine certain constitutional questions affecting the constitutional convention and the eligibility of persons to be delegates to such constitutional convention.	39
4		28	An act to amend Section 43-310, R.C.M., 1947, providing per diem and expenses of members of the legislative assembly and providing that such per diem and expenses shall be effective for the Forty-second Legislative Assembly and all sessions thereafter.	43
5	1		An act for the codification and general revision of laws relating to public schools and making this act effective upon passage and approval; amending Section 10-307, R.C.M., 1947, and repealing Sections 75-101 through 75-107, 75-1201.1, 75-1202 through 75-1206, 75-1301 through 75-1308, 75-1311, 75-1312, 75-1313, 75-1315, 75-1316, 75-1317, 75-1319, 75-1320, 75-1401 through 75-1406, 75-1501 through 75-1510, 75-1512 through 75-1526, 75-1528 through 75-1535, 75-1601 through 75-1626, 75-1628 through 75-1632, 75-1632.1, 75-1633 through 75-1647, 75-1701 through 75-1706, 75-1708, 75-1709, 75-1710, 75-1712, 75-1713, 75-1713.1, 75-1714 through 75-1723, 75-1723.1, 75-1724 through 75-1730, 75-1801 through 75-1813, 75-1813.1, 75-1814 through 75-1823, 75-1825 through 75-1834, 75-1901 through 75-1905, 75-2001 through 75-2009, 75-2011 through 75-2017, 75-2101 through 75-2105, 75-2201 through 75-2215, 75-2301, 75-2302, 75-2303, 75-2401 through 75-2405, 75-2405.1, 75-2406 through 75-2411, 75-2501, 75-2506, 75-2511 through 75-2516, 75-2518 through 75-2522, 75-2701 through 75-2709, 75-2709.1, 75-2709.2, 75-2710 through 75-2716, 75-2801, 75-2802, 75-2901 through 75-2910, 75-3101, 75-3102 through 75-3311, 75-3401 through 75-3414, 75-3501, 75-3503, 75-3104 through 75-3125, 75-3201, 75-3202, 75-3203, 75-3308 through 75-3511, 75-3610, 75-3611, 75-3612, 75-3612.1, 75-3612.2, 75-3612.3, 75-3613 through 75-3624, 75-3701, 75-3706, 75-3709 through 75-3714, 75-3716 through 75-3720, 75-3722 through 75-3729, 75-3729.1, 75-3734 through 75-3742, 75-3801 through 75-3806, 75-3901 through 75-3946, 75-4001 through 75-4007, 75-4101, 75-4103 through 75-4113, 75-4115 through 75-4118, 75-4120, 75-4120.1, 75-4120.2, 75-4120.3, 75-4121 through 75-4144, 75-4146 through 75-4153, 75-4201 through 75-4228, 75-4230 through 75-4242, 75-4244 through 75-4248, 75-4309 through 75-4323, 75-4413 through 75-4430, 75-4501 through 75-4506, 75-4511, 75-4512, 75-4514, 75-4515, 75-4516.1, 75-4516.2, 75-4517, 75-4518, 75-4518.1, 75-4519 through 75-4527, 75-4529 through 75-4535, 75-4537, 75-4538, 75-4540, 75-4601 through 75-4607, 75-4609 through 75-4614, 75-4701 through 75-4709, 75-4801 through 75-4809, 75-5001 through 75-5007, 75-5101, 75-5310 through 75-5317, 75-5401 through 75-5405, 75-5501 through 75-5508, R.C.M., 1947.	43
6	17		An act to amend Section 15-22-119, R.C.M., 1947, to change the time for filing annual reports.	344

Chap.	Senate Bill	House Bill	Title	Page
7		5	An act to be known as the "Territorial Integrity Act of 1971" and to prescribe certain rights and enforcement thereof with respect to the furnishing of electric service; amending Section 14-502, R.C.M. 1947, relating to the purposes for which cooperatives may be organized; and Section 14-530, R.C.M. 1947, relating to definitions and providing an effective date.	345
8	5		An act amending Section 26-332, R.C.M., 1947, concerning restrictions about method of catching, possession, and sale of fish.	351
9	15		An act to amend Section 67-1602.1, R.C.M., 1947, to validate all joint tenancies created by direct conveyance prior to July 1, 1963.	352
10	30		An act to amend Section 59-538, R.C.M., 1947, providing per diem allowance for state employees.	352
11		24	An act to amend Section 82-1914, R.C.M. 1947, by adding a new paragraph providing that the proceeds from the sale of used and surplus material, supplies, equipment and other personal property of the state highway commission be placed in earmarked revenue fund to the credit of the highway commission.	353
12		77	An act to delete erroneous Revised Codes of Montana reference citations in the special fuel tax laws and insertion therein of correct citations; amending Sections 84-1832 and 84-1833, R.C.M. 1947; and providing an effective date.	354
13		78	An act deleting that provision regarding refunds on aviation gasoline tax allocated to the State Aeronautics Commission by Section 1-501, R.C.M. 1947, from the definition section of the gasoline license tax laws and inserting same into its proper position in the refund procedure section of said gasoline license tax laws; amending Sections 84-1846 and 84-1855, R.C.M. 1947; and providing an effective date.	359
14		103	An act to prohibit insurers from cancelling a professional liability insurance policy or increasing the premium rates thereon without first providing the insured sixty (60) days notice in writing prior to such cancellation or increase in premium rate.	363
15		127	An act amending Section 84-4903, R.C.M. 1947, to provide for an alternative tax for nonresident taxpayers based on gross sales as required by the multistate tax compact and providing an effective date.	363
16		128	An act to amend Section 84-1501, R.C.M. 1947, to provide for an alternative corporation license tax based on gross sales as required by the multistate tax compact and to add a corrective statutory reference and providing an effective date.	364
17	44		An act relating to the disposition, sale, lease, mortgaging and pledging of electric and telephone cooperatives; and amending Section 14-521, R.C.M., 1947, and providing an effective date.	367
18	50		An act to allow highway patrol to check driver's licenses, amending Section 95-618, R.C.M., 1947	368
19	63		An act to amend Section 11-602, R.C.M., 1947, by removing therefrom authority to waive the park dedication requirement, and substitute therefor the right to accept a cash donation in lieu of said land donation and providing for authority to waive the park requirement for planned unit developments, and providing for governing body approval of all plats or subdivisions and requiring the governing body to establish regulations for development of plats of subdivisions.	370
20		212	An act to amend Section 46-2331, R.C.M. 1947, relating to fees which may be imposed by the State Grass Conservation Commission against districts.	373
21		85	An act to revise the water pollution control act by placing administration of the act with the Department of Health under policy guidance from the Board of Health; redefining the meaning of pollution; broadening the activities under which a permit must be gained under Section 69-4806, R.C.M., 1947; defining the duties of the Board of Health	

HeinOnline -- 1971 vol. I x 1971

Chap.	Senate Bill	House Bill	Title	Page
			and Department of Health; including as a member of the state water pollution advisory council, the commissioner of agriculture, deleting representative of agriculture, adding a livestock feeder, a representative from labor, a supervisor of a soil and water conservation district, a representative of an organization concerned with water recreation and a representative of an organization concerned with fishing for sport; changing the name of the state water pollution control council to the state water pollution advisory council and redefining its function; providing for a director of water pollution control; enacting a new hearing and appeals procedure; adopting a new emergencies procedure; amending Sections 69-4801, 69-4802, 69-4804, 69-4805, 69-4806, 69-4810, 69-4811, 69-4812, 69-4813, and 69-4814, R.C.M. 1947; and repealing Sections 69-4803, 69-4807, 69-4808, 69-4809, 69-4815, 69-4816, 69-4817, 69-4818 and 69-4819, R.C.M. 1947.	374
22		132	An act amending Sections 81-412, 81-419, 81-426, 81-428, 81-502, 81-606, 81-613, 81-615, 81-915, 81-1113, 81-1702.1 and 81-1703, R.C.M. 1947, to eliminate fees established by statute and to provide general authority for the commissioner of lands and investments to establish those fees with the approval of the board of land commissioners and providing for an effective date.	390
23		23	An act subjecting state and national banks to the Montana corporation license tax; and repealing Section 84-1501.4, R.C.M. 1947; and providing effective dates.	398
24		411	An act to amend Section 46-2322, R.C.M. 1947, providing grazing preferences appurtenant to dependent commensurate property.	399
25		129	An act providing that the valuation of shares of stock of national and state banks for purposes of taxation be determined in like manner; repealing Section 84-306, R.C.M. 1947, relating to valuation of shares of stock of national banks, and amending Section 84-307, R.C.M. 1947, relating to valuation of shares of stock of state banks, to accomplish the intent of this act; and providing for an effective date.	401
26		133	An act amending Section 81-204, R.C.M. 1947, to eliminate the requirements for issuance of triplicate receipts for payments made to the state through the office of the state commissioner of lands and investments; providing for receipts for cash payment or upon request; and providing for an effective date.	402
27		134	An act to provide for the cancellation of leases on state lands by the commissioner of state lands and investments subject to appeal to the state board of land commissioners, by amending Sections 81-414, 81-415, 81-419 and 81-422, R.C.M. 1947; and providing an effective date.	403
28		184	An act amending Section 91-4411, R.C.M. 1947, to clarify the application of the estate tax upon transfers of estates of decedents; to include nonresident estates under the act; to provide an apportionment formula when estate is partly within and partly without the state; and to provide a tax situs for property for estate tax purposes, and providing an effective date.	406
29		228	An act to provide for the establishment, organization and operation of the agricultural experiment station by amending Sections 75-8411, 75-8428, and repealing in their entirety Sections 75-8412, 75-8413, 75-8414, 75-8415, 75-8416, 75-8417, 75-8418, 75-8419, 75-8420, 75-8421 and 75-8422 of the higher education laws recodification of the Forty-second Session Laws of Montana.	408
30		231	An act amending Sections 28-103 and 28-123, R.C.M. 1947, providing for definitions of conservation and lands for conservation purposes; and providing for disposal of moneys for forest, forest range, forest water, and forest soil conservation by the board of forestry.	411
31		256	An act amending Section 3-1902, R.C.M. 1947, by permitting certain seeds up to a given percentage to be included in Class 2 and Class 3 mustard seed without being considered foreign material and without affecting grading and to update testing processes.	413

HeinOnline -- 1971 vol. I xi 1971

Chap.	Senate Bill	House Bill	Title	Page
32		21	An act to permit banks to suspend business during an emergency and on any day or days proclaimed as a day or days of mourning, rejoicing, or other special observance and amending Section 19-107, R.C.M. 1947.	415
33		72	An act providing for the salaries of commissioners and mayors under the commission-manager plan of city government and amending Section 11-3248, R.C.M. 1947.	419
34		179	An act amending Section 91-4415, R.C.M. 1947, to provide that inheritance taxes be collected by only the state board of equalization and county treasurer, and that the county treasurer receipt for inheritance taxes collected in quintuplet and providing an effective date.	420
35		267	An act relating to the classification of property for taxation; providing a basis for the imposition of taxes; amending Sections 84-301 and 84-302, R.C.M. 1947, and providing an effective date.	421
36		380	An act amending Sections 91-4418 and 91-4450, R.C.M. 1947, to provide for monthly reports and remittance to the state board of equalization of collections by county treasurers made under inheritance tax laws, and to provide for appropriate refunds by the state board of equalization; and providing an effective date.	426
37	66		An act to amend Section 32-3317, R.C.M., 1947, by removing the requirements for marking gross weight upon vehicles, motor trucks, truck-tractor, trailer or semitrailers operated upon highways and repealing Section 32-3311, R.C.M., 1947.	428
38	67		An act to amend Section 87-106, R.C.M., 1947, to provide that permanent partial disability settlements of workmen's compensation, occupational disease, or similar laws, prior to a return to the labor market, shall not disqualify an injured claimant from then receiving unemployment compensation benefits, if he is otherwise eligible.	428
39	74		An act relating to freedom from discrimination for women as a civil right in employment and public accommodations; amending Sections 64-301, 64-302, and 64-303, R.C.M., 1947.	433
40	104		An act to amend Section 92-1305, R.C.M., 1947.	436
41	105		An act to amend Section 92-1304, R.C.M., 1947, defining occupational disease.	436
42	130		An act to amend Section 75-6808, R.C.M., 1947, relating to pecuniary interests of a trustee in schools of his district.	437
43	138		An act to provide that the hunting or fishing license or camping permit of any person convicted of littering public or private lands while hunting, fishing or camping shall be forfeited for ninety days.	438
44	145		An act to amend Section 75-6520, R.C.M., 1947, providing for the establishment of high school districts.	438
45	160		An act to amend Section 32-2197, R.C.M., 1947, relating to overtaking and passing a school bus.	439
46	230		An act amending Section 26-201, R.C.M., 1947, to provide for the genus acipenser (sturgeon) to be game-fish (sic).	440
47	243		An act amending Section 11-1814, R.C.M., 1947, to provide for reducing the entrance age of policemen to twenty.	441
48	287		An act to amend Section 26-202.2, R.C.M., 1947, to provide a seven year waiting period for persons who have killed a grizzly bear.	442
49	336		An act to amend Section 75-6103, R.C.M., 1947, relating to teacher tenure.	444
50		32	An act amending Section 48-118.1, R.C.M. 1947, providing for delegation of authority from district court judges to clerks of court for determining and entering order on marriage application.	445
51		76	An act concerning the limitation of hours of labor for female employees to eight (8) hours; amending Section 41-	

HeinOnline -- 1971 vol. I xii 1971

Chap.	Senate Bill	House Bill	Title	Page
			1120 and repealing Section 41-1118, R.C.M. 1947; and providing an effective date.	445
52		122	An act to amend Section 32-1208, R.C.M. 1947, revising the monetary limits at which an accident must be reported from one hundred dollars ($100) to two hundred and fifty dollars ($250).	446
53		161	An act to authorize the highway patrol board to issue identification cards to persons over eighteen (18) years of age.	447
54		100	An act to amend Section 94-3527, R.C.M. 1947, providing exceptions for carrying concealed weapons.	448
55		120	An act to amend Section 53-421, R.C.M. 1947, revising the monetary limits at which an accident must be reported from one hundred dollars ($100) to two hundred and fifty dollars ($250).	449
56		121	An act to amend Section 53-422, R.C.M. 1947, revising the damage limit in determining the requirement of security from one hundred dollars ($100) to two hundred fifty dollars ($250).	450
57		178	An act to amend Sections 75-6207, 75-6208, 75-6213, R.C.M. 1947, relating to the employer contribution to the pension accumulation fund, to interest due on redeposit of contributions, to the retirement benefits and disability benefits paid by the teachers retirement system and further relating to the payment of interest when purchasing out-of-state service.	452
58		422	An act to amend Section 64-207.1, R.C.M. 1947, relating to the opportunity of a publisher of libelous or defamatory matter to correct the same, by adding cable television systems to the list of such publishers: repealing all acts and parts of acts in conflict herewith.	464
59		596	An act to amend Section 23-3318, R.C.M. 1947, by providing for filing of certificates of nomination by candidates for municipal offices; and providing an effective date.	465
60	13		An act to provide a period of ten years within which an action for damages arising out of certain services or work on improvements to real property must be commenced; and providing an effective date.	466
61	29		An act providing for the creation of a confidential relationship between student and school personnel.	467
62	80		An act to amend Sections 4-114 and 4-121, R.C.M., 1947, relating to the hours state liquor stores shall be open.	469
63	139		A bill to provide a guaranty association for all insurers, to protect the public from insurer insolvency and providing for assessment among association members under certain conditions.	470
64	148		An act to provide for control and regulation of the affairs of insurance holding companies; prescribe rules and regulations governing acquisition and disposal of insurance holding companies; subjecting domestic insurers to examination by the insurance department; providing for application to be made to the insurance commissioner to approve certain transactions; providing for judicial review; defining terms; and providing penalties; repealing Sections 40-5501 through 40-5508, R.C.M., 1947.	480
65	165		An act to amend Section 87-117, R.C.M., 1947, to increase the per diem pay of members of the employment security commission.	500
66	177		An act to amend Sections 11-1814 and 16-3705, R.C.M., 1947, to provide for the waiving of residency requirements for police officers, deputy sheriffs or marshals.	501
67	205		An act to amend the motor carrier act setting the fees required for filing various documents.	504
68	207		An act to amend motor carrier act, Title 8, Chapter 1, R.C.M., 1947, by adding a new subsection (a) allowing the railroad and public service commission to assess fines for	

HeinOnline -- 1971 vol. I xiii 1971

Chap.	Senate Bill	House Bill	Title	Page
			violation of the motor carrier act after proper hearing and increasing fines for violation of the act.	505
69	208		An act to amend Sections 8-110, 8-111, 8-111.1, R.C.M., 1947, all relating to the certificate required of Class C motor carriers— contents of application—fee: excepting from such requirements all Class C motor carriers operating pursuant to the terms and conditions of a United States government contract, agency or department thereof; providing for a certificate of public convenience and necessity for all Class C motor carriers operating pursuant to the terms and conditions of a United States government contract, agency or department thereof, such transportation deemed a transportation movement subject to the provisions of the Montana Motor Carrier Act, R.C.M., 1947, 8-101 et seq. providing that the written contract and its presentation to the board shall be deemed sufficient proof of public convenience and necessity according to the terms and conditions within the contract; providing further that a Class C certificate of public convenience and necessity may be issued to that motor carrier without requirement of time and place for public hearing, said certificate issued only during the duration of the United States government contract; providing further for renewal of said certificate; amending R.C.M., 1947, 8-111 exempting all Class C carriers operating pursuant to the terms and conditions of a United States government contract, agency or department from requirement of public hearings—notice all matters to be considered; amend R.C.M., 1947, 8-111.1 from requirement of time and place of public hearing or issuance of board order.	506
70	223		An act to amend the reporting date and the expiration date of the interlocal cooperation commission. Amending Section 11-4412 and 11-4416 R.C.M., 1947, enacted as Sections 12 and 16, Chapter 129, Laws of 1969.	511
71	228		An act to amend Section 93-8625, R.C.M., 1947, relating to who may sue without costs.	512
72	238		An act to amend Section 4-153, R.C.M., 1947, by deletting the provision that the liquor control board members may receive samples of liquor for quality determination, and by providing that liquor samples received for testing shall be limited to one twenty-five fluid ounce representative which shall be forwarded to a qualified chemical laboratory for analysis and providing an effective date.	512
73		8	An act providing for the licensing and regulation of persons in Montana representing themselves as psychologists, and creating a state board of psychologist examiners, prescribing its powers and duties, and providing penalties for violations.	514
74		10	An act amending Section 69-6402, R.C.M. 1947, relating to the state board of eugenics by providing for the payment of per diem and expenses for the members of the board, and providing an effective date.	524
75		17	An act to amend Section 66-1307, R.C.M. 1947, to increase the annual registration fee for optometrists.	525
76		43	An act to amend Sections 69-5401, 69-5402, 69-5403, 69-5404, 69-5405, 69-5407 and 69-5408, R.C.M. 1947, relating to licensing and control of the business of cleaning cesspools, septic tanks and privies; and providing an effective date.	525
77		109	An act to amend Section 4-235, R.C.M. 1947, to remove the limitation of outstanding indebtedness which may be incurred by the Montana liquor control board; and providing an effective date.	528
78		167	An act to amend Section 26-1201, R.C.M. 1947, removing buffalo from the requirements of game farm permit.	529
79		196	An act to require each Montana licensed optometrist to attend continuing educational programs for not less than twelve (12) hours annually.	531
80		198	An act to amend the eligibility requirements for participation in benefits under the volunteer firemen's pension plan; amending Sections 11-2022, 11-2023, 11-2024 and 11-2025, R.C.M. 1947; repealing any acts and parts of acts in conflict herewith; and providing an effective date.	531

HeinOnline -- 1971 vol. I xiv 1971

Chap.	Senate Bill	House Bill	Title	Page
81		247	An act amending Section 16-3705, R.C.M. 1947, relating to qualifications and tenure of deputy sheriffs.	538
82		261	An act to subject corporations to an income tax if they are not subject to the corporation license tax; and providing an effective date.	541
83		272	An act to repeal the taxpayer qualification of electors voting at school elections for issuing school district bonds, additional levy for general fund, consolidation or annexation with assumption of bonded indebtedness, and building reserve fund authorization; to repeal the taxpayer qualification of petitioners for elementary district territory transfer; amending Sections 75-6410, 75-6412, 75-6414, 75-6509, 75-6516, 75-6923, 75-7112, 75-7113, 75-7114, 75-7117, 75-7134, and 75-7205, R.C.M. 1947; repealing Section 75-6411, R.C.M. 1947; and providing an effective date.	543
84		285	An act to amend Section 11-1829, R.C.M. 1947, to permit the board of trustees to invest in certificates of deposit.	554
85		407	An act to amend Section 82-3001, R.C.M. 1947, to include the secretary of the livestock commission and the executive officer of the livestock sanitary board on the interdepartmental advisory council.	555
86		473	An act to provide a deductible plan of insurance for state buildings and their contents.	555
87		54	An act amending Section 66-411, R.C.M. 1947, relating to the practice of barbering, increasing the fees charged for an annual license fee, and increasing the initial inspection fee of barber shops.	556
88		57	An act to amend Section 87-111, R.C.M. 1947, which section is a part of the unemployment compensation law, by including as a part of the unemployment compensation account, payments made in lieu of contributions by nonprofit organizations and the state and its political subdivisions in conformity with public law 91-373, employment security amendments of 1970	557
89		59	An act to amend Section 32-2146, R.C.M. 1947, to provide authority for the highway commission to establish speed zones on state and federal-aid highways in municipal and urban areas.	558
90		67	An act to remove the residence requirement for persons applying for aid to dependent children; amending Section 71-504, R.C.M. 1947; and providing an effective date.	559
91		86	An act to amend Section 87-129, R.C.M. 1947, which section is a part of the unemployment compensation law, by redefining the responsibilities of the commission in participating in the arrangements approved by the secretary of labor for combining wages in employment in two or more states in conformity with public law 91-373, employment security amendment of 1970.	560
92		97	An act to amend Section 77-1002, R.C.M. 1947, to provide for hiring veterans of the Korean War and the Vietnam conflict.	562
93		105	An act adding new Section 59-1008, R.C.M. 1947, to provide uniform sick leave benefits for public employees.	562
94		150	An act to validate records of court proceedings prior to January 1, 1971, containing defects, omissions, informalities or irregularities in obtaining a judgment or decree affecting real property, in which time for appeal has expired; providing that duly certified copies of such judgment or decree may be read in evidence with the same effect as judgments or decrees duly and regularly obtained, recorded and entered.	564
95		151	An act validating deeds and conveyances made prior to January 1, 1971, which are defective in execution or acknowledgement, providing that such instruments shall be conclusive evidence of title against the grantors.	565
96		152	An act to validate and confirm sales or dispositions heretofore made or attempted to be made by any county of any	

HeinOnline -- 1971 vol. I xv 1971

Chap.	Senate Bill	House Bill	Title	Page
			property in which such county had or claimed any right, title or interest, and all instruments of transfer or conveyance heretofore made or executed by any county, and to declare that all such sales, dispositions and instruments have vested in the grantee or purchaser, as of the date thereof, all right, title and interest of the county in and to the property described or covered.	565
97		153	An act relating to validation of judicial sales prior to January 1, 1971, of real property and curing defects or irregularities in the issuance of execution, manner of making or conducting the sale, or in the recitals or references in sheriffs' deeds.	566
98		154	An act validating deeds and conveyances in sales of land and personal property made by trustees, executors, administrators and guardians prior to January 1, 1971, curing defects and irregularities in such sales.	566
99		155	An act validating certain instruments affecting real property and which were erroneously executed or acknowledged prior to January 1, 1971; imparting notice by recording thereof, and providing that duly certified copies thereof may be read in evidence with like effect as copies of an instrument duly acknowledged and recorded.	567
100		163	An act to amend Section 75-6110, R.C.M. 1947, providing for an increase in the fine for abuse of teachers by parents and others.	568
101		191	An act to amend Section 1, Chapter 4, Laws of 1969, compiled as Section 82-4101, R.C.M. 1947, relating to withdrawal of retained payments by public contractors and adding bank certificates of deposit to the obligations that may be deposited in relation thereto.	568
102		192	An act to amend Section 32-3304.1, R.C.M. 1947, defining concrete mixer trucks, mixer trailers, semitrailers and truck tractors and establishing fees.	569
103		210	An act to amend Section 87-110 of the unemployment compensation law, R.C.M. 1947, by providing the right to elect coverage by the political subdivisions of this state for its employees in hospitals and institutions of higher education in conformity with public law 91-373, employment security amendments of 1970; fixing an effective date; deleting language no longer applicable.	570
104		211	An act to amend Section 87-104 of the unemployment compensation law, R.C.M. 1947, by amending the duration of benefits to provide a program of extended benefits in conformity with public law 91-373, employment security amendments of 1970; and providing an effective date.	571
105		250	An act relating to payments to silicotics; amending Sections 71-1003, 71-1004 and 71-1008, R.C.M. 1947, as amended; repealing all acts and parts of acts in conflict herewith.	576
106		260	An act authorizing the fish and game commission to regulate the use, by archers, of livestock and vehicles during special archery seasons.	578
107		262	An act to amend and add new sections to the Montana milk control law; amending Section 27-403, R.C.M. 1947, relating to definitions, by adding definitions thereto; amending Section 27-406, R.C.M. 1947, relating to markets, by removing the requirement there be at least five (5) natural marketing areas in the state; amending Section 27-407, relating to minimum prices, to provide for flexible price formulas and to specify how base plans may be established and under what circumstances area-wide or state-wide pooling arrangements may be adopted; amending Sections 27-408, 27-409, and 27-410, relating to licensing, to include jobbers and imported milk within the jurisdiction of the milk control board;amending Section 27-411, R.C.M. 1947, to provide that civil penaltites may be assessed by the milk control board in lieu of suspension or revocation of license; repealing Section 27-427, R.C.M. 1947, relating to local advisory boards; adding new sections to provide a time limitation on credit which may be extended to retailers and to prohibit financing of producers and retailers by distributors; providing for severability if any part of this act is determined	

HeinOnline -- 1971 vol. I xvi 1971

Chap.	Senate Bill	House Bill	Title	Page
			unconstitutional; and repealing all acts and parts of acts in conflict herewith.	579
108		275	An act to provide for holiday observance by public employees when a holiday falls on the employee's day off.	591
109		296	An act amending Section 75-6319, R.C.M. 1947, to increase from four hundred dollars ($400) to five hundred dollars ($500) the amount paid per pupil attending high school in Twin Bridges from the Montana Children's Center by the superintendent of public instruction.	591
110		306	An act to provide for maintenance of state fire marshal's office; and amending Section 82-1231, R.C.M. 1947.	592
111		308	An act to establish a division of mental retardation within the department of institutions; providing that the Boulder River School and Hospital is within the division of mental retardation; providing that the Eastmont Training Center is within the division of mental retardation; providing that the superintendent of Boulder River School and Hospital is the supervisor of the division of mental retardation; prescribing the location and function of the Boulder River School and Hospital; prescribing the function of the superintendent of the Boulder River School and Hospital; defining mental retardation; setting forth the functions of the division of mental retardation and providing for effective date. Repealing Sections 80-2301 and 80-2302, R.C.M. 1947.	592
112		310	An act relating to the interstate compact on mental health authorizing the state of Montana to enter into a compact with any of the United States, its territories and possessions, for the treatment of mentally ill and mentally deficient; providing for a "Compact Administrator;" and providing an effective date.	594
113		324	An act to amend Section 77-157, R.C.M. 1947, to provide for leave of absence for state employees attending training camp or similar training program.	602
114		332	An act repealing Section 94-35-138, R.C.M. 1947, which makes it a misdemeanor to encourage or permit a minor under sixteen (16) years of age to be in a public dance hall.	603
115		347	An act to provide for the creation of a game preserve in the area of the Gates of the Mountains, Lewis and Clark County, Montana.	603
116		370	An act relating to the public employees' retirement system changing the formula for calculating retirement benefits; increasing the employer contribution to the retirement fund; increasing retirement allowances to members of the system retired prior to July 1, 1971; requiring a minimum of two (2) years of creditable service after reinstatement from retirement to be eligible for newly enacted retirement benefits; amending Sections 68-801, 68-901, 68-1307, R.C.M. 1947, and adding new Section 68-902, R.C.M. 1947.	604
117		392	An act to amend Section 87-109, R.C.M. 1947, which section is a part of the unemployment compensation law, by extending coverage to nonprofit organizations in conformity with public law 91-373, employment security amendments of 1970; reducing the time required to qualify for a reduced rate from five (5) years to three (3) years; requiring reports to be filed and contributions to be paid for the computation period before less than the assigned maximum contribution rate can be assigned; providing for an exception in limiting amount of increase in contribution rate; increasing the tax base from three thousand dollars ($3.000) per annum per employee to four thousand two hundred dollars ($4,200), and providing an effective date in conformity with public law 91-373, employment security amendments of 1970; providing for employer appeals; deleting language no longer applicable; reducing average annual tax rate for 1972.	612
118		394	An act to amend Section 75-6410, R.C.M. 1947, providing the qualifications of electors at school elections by changing the voting age from twenty-one to the minimum age provided by the constitution of the state of Montana; and providing residency requirement.	619
119		395	An act to amend Section 16-405, R.C.M. 1947, providing for registration of voters for elections, by changing ths age of	

HeinOnline -- 1971 vol. I xvii 1971

Chap.	Senate Bill	House Bill	Title	Page
			a qualified voter from twenty-one years of age to the minimum age for voting provided by the constitution of the state of Montana, and establishing residency requirement; providing an effective date.	619
120		398	An act to amend Section 23-2701, R.C.M. 1947, providing qualifications of electors by reducing the age from twenty-one (21) to the minimum age for voting prescribed by the constitution of the state of Montana, except that the age will be eighteen (18) for elections for president and vice-president of the United States; by reducing the residency requirement to thirty (30) days for elections for president and vice-president of the United States; and by repealing sections 23-2702 and 23-2703, R.C.M. 1947, pertaining to qualifications of electors to vote on questions of incurring a state debt, issuing bonds, or levying a state tax.	620
121		448	An act to amend Section 59-1001, R.C.M. 1947, to change the waiting period required before public employees earn vacation and to amend Section 59-1002, R.C.M. 1947, to provide that accumulated vacation credits cannot exceed thirty (30) working days as of the end of any calendar year and providing for an effective date.	622
122		450	An act amending Section 75-7806 and 75-7816, R.C.M. 1947, to provide for education of mentally retarded to age twenty-five (25).	623
123		489	An act amending Sections 75-7805 through 75-7807, R.C.M. 1947, to include trainable mentally retarded children.	624
124		508	An act amending Section 72-143, R.C.M. 1947, providing that the board of railroad commissioners provide a copy of the annual report to be mailed to the secretary of the department of transportation; amending Section 72-150, R.C.M. 1947, providing that the rules and regulations of the board regarding equipment of cars, trains, engines, health and sanitation be coextensive with the provisions of the department of transportation; amending Section 72-151, R.C.M. 1947, providing that the rules and regulations of the board concerning examination, inspection and repair of brake equipment be coextensive with the requirements of the department of transportation.	625
125		553	An act to provide a voluntary consolidation and annexation incentive plan for school districts and providing an effective date.	627
126		555	An act to regulate the placing of caged fish in public waters and provide the fish and game commission with authority to regulate.	629
127		566	An act amending Section 90-201, R.C.M. 1947, relating to the definitions of grades of apples.	630
128		570	An act extending the authority of the western interstate commission for higher education including the placement of Montana students in schools outside the WICHE region and for related proposals.	632
129	23		An act amending Section 26-202.1, R.C.M., 1947, to increase the special license fee for taking grizzly bear from one dollar to five dollars for residents and from twenty-five dollars to thirty-five dollars for nonresidents and to require a special license fee of five dollars for residents and thirty-five dollars for nonresidents for taking black or brown bear.	633
130	28		An act to amend Section 27-612, R.C.M. 1947, to include perishable food dealers.	638
131	39		An act to provide for an intoxication test and consent thereto, for persons arrested for driving while under the influence of intoxicating liquor, providing for suspension upon refusal of operator to submit to test, providing for an appeal of license suspension.	640
132	40		An act to amend Section 32-2142, R.C.M., 1947, reducing the amount of alcohol necessary to presume a person under the influence of intoxicating liquor and defining the basis for determining the same, and providing an effective date.	643

HeinOnline -- 1971 vol. I xviii 1971

Chap.	Senate Bill	House Bill	Title	Page
133	45		An act amending Sections 26-1502, 26-1505, and 26-1507, R.C.M., 1947, and adding new sections establishing the policy of the state of Montana on protection of fishing streams, providing for submission of plans for construction and hydraulic projects affecting such streams to the Montana fish and game commission, for review of such plans and exempting certain projects and parties.	645
134	46		An act to require each state agency to submit an annual written report to the governor rather than a biennial report; amending Section 82-4002, R.C.M., 1947.	647
135	64		An act to amend Section 69-4610, R.C.M., 1947; providing that the confidentiality of all information concerning public venereal disease work be protected, preserved and remain inviolate; providing a definition of the word "information" in said section; and providing that such information is privileged and production thereof may not be required in legal proceedings.	649
136	77		An act to revise the refuse disposal districting law by amending the service fee section; amending the section relating to duties and powers of the board of directors; adding a section allowing for creation of joint refuse disposal districts; adding a section defining duty of county attorney; amending Sections 69-6002, 69-6007, and 69-6010, R.C.M., 1947, and repealing Section 16-1031, R.C.M., 1947.	650
137	81		An act to amend Section 89-1811, R.C.M., 1947, to authorize the county treasurer to pay to an irrigation district certain funds collected on behalf of the district for reserve fund purposes and for the United States contract fund.	653
138	83		An act to provide for the issuance by licensed motor vehicle dealers of stickers to be affixed to the rear window of new and used vehicles purchased from such dealers, to remain thereon during the ten day grace period for making application for registration of such vehicle; providing a non-registration penalty; requiring that in cases of sales of used motor vehicles to persons other than licensed dealers, the dealer forward to the county treasurer, either personally or by first class mail, within three days following delivery of the vehicle, the certificate of ownership and certificate of registration with an application for registration executed by the new owner, and a copy of the sticker affixed to said vehicle by the dealer; providing that in such cases and upon compliance by the dealer with such requirements, title to said motor vehicle shall be deemed to have passed to the purchaser as of the date of delivery of said vehicle; amending Sections 53-108, 53-109, 53-146, and 53-147, Revised Codes of Montana, 1947; and repealing all acts and parts of acts in conflict herewith.	654
139	91		An act to make Montana traffic laws applicable to forest development roads except as additional or conflicting rules may be designated by the United States Forest Service for portions thereof designated as special service roads, and to confer law enforcement jurisdiction upon the Montana highway patrol and sheriffs of this state to enforce the traffic laws.	661
140	106		An act to amend Section 92-709. R.C.M., 1947, to provide payment of compensation for a "healing period" in addition to that allowed for loss of a specified member of the body.	662
141	107		An act to amend Section 92-1004, R.C.M., 1947, to raise the maximum bonding requirement to one hundred thousand dollars, and providing for a corporate surety bond, approved by the board, in lieu of deposit of bonds.	665
142	108		An act to amend Section 92-1005, R.C.M., 1947, to raise the minimum assessment from ten dollars to two hundred dollars.	666
143	110		An act to amend Section 92-902, R.C.M., 1947, raising the assessment that the board may levy from two-hundredths of one percent to three-hundredths of one percent.	666
144	119		An act to repeal Chapter 6, Title 41, R.C.M., 1947.	667
145	121		An act to amend Section 92-208, R.C.M., 1947, to empower the board to issue rules and regulations covering, and in	

HeinOnline -- 1971 vol. I xix 1971

Chap.	Senate Bill	House Bill	Title	Page
			all cases require board approval of, rejection of coverage by officers of private corporations.	667
146	127		An act to amend Section 92-1121, R.C.M., 1947, to delete the provision that salary and wages paid during actual vacation periods shall not be computed in computing payroll.	668
147	134		An act to amend Sections 28-408, 28-410 and 28-412, R.C.M., 1947, providing for reduction or management of fire hazards, caused by cutting forest products on private forest lands, to be in keeping with modern and progressive forest practices and more effective fire control; providing for an increase not to exceed two dollars per thousand feet log scale for fire hazard reduction on private forest lands; providing for discretion in the state forester as to whether a cash bond will be required of the owner or operator when a fire hazard reduction agreement is executed; and repealing Sections 28-401 through 28-403.	669
148	157		An act authorizing the board of railroad commissioners of the state of Montana to grant temporary motor carrier authority in cases of immeediate and urgent need; prescribing the maximum periods thereof; and repealing Section 8-130 of the Revised Codes of Montana, 1947.	670
149	166		An act to amend Sections 46-801, 46-802, 46-803 and 46-804, R.C.M., 1947, to require inspection of livestock before a change of ownership.	671
150	167		An act amending Sections 60-131.1, 60-131.2, 60-131.3, 60-131.6 and 60-131.9, R.C.M., 1947; to extend the provisions of Sections 60-131.1 through 60-131.13, R.C.M., 1947; to include unitization of pools or parts thereof in a field for primary recovery of gas; and providing an effective date.	679
151	173		An act amending Section 40-4745, R.C.M., 1947, to provide for inclusion of foreign stock corporations and an immediate effective date.	684
152	214		An act to amend Sections 79-201 and 79-202, R.C.M., 1947, relating to the general fiscal duties of the state treasurer; repealing Sections 79-801, 79-804, 79-806, 79-807, 79-808, and 79-810, R.C.M., 1947.	685
153	245		An act to provide that a county shall not circumvent any competitive bidding procedures with respect to the letting of a contract for a public work or construction project under certain circumstances by dividing a public work or construction project into several contracts, separate work orders or similar devices.	687
154	272		An act to amend Section 16-1406, R.C.M., 1947, to permit the increase of the appropriation for county fairs.	687
155	304		An act to amend Section 71-610, R.C.M., 1947, empowering the state department of public welfare to authorize supplementary optometric services upon an optometric examination to qualified welfare recipients.	688
156	328		An act to amend Sections 91-502, 91-504 through 91-508 and 91-523, R.C.M., 1947, to move the record keeping function and administration of personal property sales under the escheated property act from the office of the state treasurer to the state board of equalization.	689
157		188	An act accepting the cession of concurrent jurisdiction with the United States over the real property comprising the Veterans' Administration Center, Fort Harrison, Montana; and providing an effective date.	693
158		475	An act relating to elections upon questions which concern or may concern the creation of a public debt or liability and the qualifications of persons petitioning for and voting at such elections: amending Sections 1-804, 23-2701, 23-2702, 23-2703, 23-3012, 23-4201, 11-2217, 11-2271, 11-2275, 11-2306, 11-2310, 11-2404, 11-3906, 16-2021, 16-2022, 16-2026 and 93-2612, R.C.M. 1947; prescribing a period of limitation upon actions and defenses raising an issue as to such qualifications; and providing an effective date.	693
159		52	An act to submit to the qualified electors of Montana an amendment to Section 2, Article IX of the constitution of	

Chap.	Senate Bill	House Bill	Title	Page
			Montana changing the legal voting age to eighteen (18) years of age, changing the period of residence to thirty (30) days and deleting the requirement that a voter be a taxpayer on certain issues, and to remove obsolete language.	709
160		71	An act amending the store license laws by deleting the provision that all stores may be listed on one application blank, by providing that all store licenses shall lapse December 31 of each calendar year, and by excluding vending machines from the act; and amending Sections 84-2402, 84-2404 and 84-2410, R.C.M. 1947.	709
161		180	An act amending Section 91-4437, R.C.M. 1947, by rescinding the requirement that the order determining inheritance tax be mailed to the state treasurer.	711
162		218	An act to amend Section 75-8125, R.C.M. 1947, providing for annexation of elementary districts by a community college district.	712
163		220	An act to amend Section 75-8117, R.C.M. 1947, providing for notice of special meetings of the board of trustees.	713
164		221	An act to amend Section 75-8112, R.C.M. 1947, providing for the organization of a community college district.	714
165		309	An act authorizing the department of institutions to purchase services in local communities for mentally-retarded persons; providing for nonprofit corporate boards to administer such programs locally; providing for the allocation of appropriated monies; providing for approval of programs; providing for the administration by the department of institutions, and providing an effective date.	715
166		396	An act to amend Section 11-3116, R.C.M. 1947, and Section 11-3229, R.C.M. 1947, providing penalties for giving false information concerning qualifications as a voter for city elections under a commission or commission-manager form of government, by changing the age of a qualified voter from twenty-one (21) to the minimum age provided for voting by the constitution of the state of Montana and referring to the residency requirements, and providing an effective date.	718
167		424	An act to amend Section 40-3729, R.C.M. 1947, pertaining to the assignment of insurance policies; providing for the assignment of the incidents of ownership of group insurance certificates.	720
168		452	An act to omit the age requirement as qualification for professional licenses or certificates; amending Sections 66-603, 66-803, 66-1027, 66-1506, 66-1819, 66-1820, 66-2204, 66-2502, 66-2708, 66-3103, 93-2001.	721
169		505	An act to amend Section 87-103, R.C.M. 1947, which section is a part of the unemployment compensation law, by providing for the weekly benefit amount to equal one twenty-sixth (1/26) of the high-quarter earnings; fixing the minimum weekly benefit amount at twelve dollars ($12); increasing the maximum weekly benefit amount to forty-seven dollars ($47); establishing effective dates; increasing the maximum weekly benefit amount to fifty-two dollars ($52) effective January 1, 1972; adjusting the minimum qualifying wage for individuals with high-quarter wages in excess of wages necessary to qualify for the maximum weekly benefit amount; deleting unnecessary language.	733
170		575	An act to provide for the support of the government of Montana for the years 1971 and 1972, providing a severability clause and an effective date.	735
171	42		An act to revise the Montana food, drug, and cosmetic act to include fair packaging and labeling: amending Sections 27-702, 27-703 and 27-721, R.C.M., 1947.	736
172	60		An act to amend Section 94-35-249, R.C.M., 1947, to prohibit the possession of any key or device specifically designed to open or break any parking meter, coin telephone, or other vending machines dispensing goods or services and to increase the penalties provided by Section 94-35-249, R.C.M., 1947.	746
173	61		An act to amend Section 95-1703, R.C.M., 1947, providing for dismissal of actions.	746

HeinOnline -- 1971 vol. I xxi 1971

Chap.	Senate Bill	House Bill	Title	Page
174	115		An act to amend Section 92-701, R.C.M., 1947, to raise compensation rates during the period of total temporary disability.	747
175	120		An act to amend Section 92-422, R.C.M., 1947, to redefine a "week" to mean five working days.	749
176	140		An act to amend Section 93-2908, R.C.M., 1947, providing for a penalty for filing a claim for the direct payment of money in an improper venue, if the plaintiff will not stipulate for such change within ten days after request and a change of venue is granted.	749
177	178		An act amending Section 26-301, R.C.M., 1947, to include stock-killing mountain lions in subsection five.	750
178	189		An act to amend Section 61-112.2, R.C.M., 1947, to allow reasonable attorney's fees for the successful recovery of damages for malicious destruction of property by persons under eighteen (18), from the parents, as provided for in Section 61-112.1, R.C.M., 1947.	753
179	195		An act relating to certificates of registration and ownership; amending Section 53-107, R.C.M., 1947.	753
180	198		An act requiring persons excavating in any public street, alley, right-of-way dedicated to public use or utility easement to obtain information as to existence therein of underground facilities, and providing civil penalties for failure so to do.	755
181	201		An act relating to white canes for the blind; repealing Sections 32-1143, 32-1144, 32-1145, R.C.M., 1947.	757
182	206		An act to amend Sections 8-103 and 8-104.4 of the Revised Codes of Montana, 1947, relating to regulation of motor carriers by the board of railroad commissioners; empowering the board to authorize different rates for service within the same places when such different rates are justified by the differing character of service to be rendered.	759
183	244		An act to provide that a city or town shall not circumvent any competitive bidding procedures with respect to the letting of a contract for a public work or construction project under certain circumstances by dividing a public work or construction project into several contracts, separate work orders or similar devices.	761
184	247		An act to allow and regulate the use of dogs for hunting mountain lion.	762
185	254		An act relating to the fees charged and collected by the secretary of state; amending Sections 15-22-122, 15-2384, 25-102, 87A-9-403, 87A-9-404, 87A-9-405, 87A-9-406, 87A-9-407, R.C.M., 1947.	762
186	258		An act to create a state temporary mosquito abatement advisory council and a vector control specialist position in the department of health to determine, review, initiate, and recommend a comprehensive mosquito abatement program for the state, and, in addition, review and assist vector control programs in a pilot project in the Milk River Valley area; a temporary act.	769
187	279		An act amending Section 43-107, R.C.M., 1947, to move Teton county to the second congressional district.	772
188	339		An act to amend Section 79-1202, R.C.M., 1947, relating to moneys to be invested by the state board of land commissioners by authorizing the board to invest in first mortgages on unencumbered real property when such real property is leased by the mortgagor and the lease payments are guaranteed by any agency of the United States government; repealing all acts or parts of acts in conflict herewith.	773
189	22		An act to amend Section 26-201, R.C.M., 1947, defining mountain lion as a game animal; and to correct spelling of the word "stizostedion".	777
190	209		An act to provide revisions to "the occupational disease act of Montana" in compliance with the mandate of the Congress of the United States as required by the provisions of public law 91-173 of the Ninety-first Congress; and providing for	

HeinOnline -- 1971 vol. I xxii 1971

Chap.	Senate Bill	House Bill	Title	Page
			the payment of benefits for total disability or death to a coal miner due to defined pneumoconiosis substantially to, or greater than, the amount of benefits prescribed by said public law and to prescribe standards and definitions for determining death or total disability due to pneumoconiosis, which are substantially equivalent to those established by said public law and reegulations by the secretary of health, education and welfare; and providing for the submission of any claim for benefits within three years of discovery of total disability or death from said disease; and providing for the liability of prior and successor operators for all benefits for miners at such mine on or after December 30, 1969; amending Section 92-1303, R.C.M., 1947, relating to definitions of disablement and pneumoconiosis; amending Section 92-1310, R.C.M. 1947, relating to liability of last employer; amending Section 92-1312, R.C.M., 1947, relating to time in which a claim may be presented; amending Section 92-1315, R.C.M., 1947, relating to procedure for medical examination; amending Section 92-1321, R.C.M., 1947, relating to compensation benefits payable under said act; and providing an appendix setting forth appropriate charts for determination of disability and providing standards for interpretation thereof; and providing an effective date.	778
191		4	An act amending Section 80-1601, R.C.M. 1947, providing for institutions subject to per diem charge by adding foster home care and group home care provided under the jurisdiction of the aftercare division of the department of institutions; and providing an effective date.	794
192		13	An act to amend Sections 41-801, 41-804, 41-808 and 41-810, R.C.M. 1947, relating to vocational rehabilitation and education.	794
193		14	An act amending Section 11-709, R.C.M. 1947, providing four year terms for mayors and aldermen and providing staggered terms for aldermen, deleting obsolete language and providing an effective date.	797
194		26	An act to amend Section 32-21-149, R.C.M. 1947, relating to restrictions placed on tire equipment; permitting the use of specially designed pneumatic tires when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid and fixing penalty.	798
195		38	An act amending Section 10-605.1, R.C.M. 1947, providing to include information as to parents in a preliminary inquiry petition concerning a child's delinquency.	799
196		82	An act amending Sections 69-4509 and 69-4510, R.C.M. 1947, by revising the qualifications of a local health officer.	800
197		130	An act amending Section 69-5201, R.C.M. 1947, further defining long-term care facility to include intermediate care facilities.	803
198		171	An act to amend Section 75-7011, R.C.M. 1947, providing for liability insurance for school buses.	805
199		174	An act to amend Section 32-3601, R.C.M. 1947, relating to county tax levies for construction, maintenance, or improvement of public highways.	806
200		175	An act to amend Section 75-6111, R.C.M. 1947, providing alternatives for teachers during the state teachers' association convention.	807
201		242	An act to amend Section 3-2911 and Section 3-2913, R.C.M. 1947, relating to the assessment of wheat grown in the state of Montana.	808
202		255	An act to amend Section 84-1847, R.C.M. 1947, relating to the gasoline license tax providing for a tax of seven cents (7c) per gallon; and providing an effective date.	810
203		273	An act to amend Sections 66-1012, 66-1013, 66-1023, 66-1025, 66-1028, 66-1029, 66-1030, R.C.M. 1947, of the medical practice act providing for the issuance of physician's certificates to doctors of osteopathy, altering the composition of the board of medical examiners to include one doctor of osteopathy, expanding the definition of approved medical	

HeinOnline -- 1971 vol. I xxiii 1971

Chap.	Senate Bill	House Bill	Title	Page
			schools, internships and residencies to include schools accredited by the American Osteopathic Association and internships and residencies approved by the American Osteopathic Association.	810
204		518	An act providing simplified administrative procedures in the taxation of aviation gasoline for allocation to the Aeronautics Commission by subjecting such gasoline to a one cent (1c) per gallon tax rather than the present seven cents (7c) and by allowing no deduction, refund, or exemption from the tax; deleting aviation gasoline from those provisions of the gasoline license tax laws which provide evaporation allowances and credit refunds; providing a definition of "aviation dealer"; providing a new section numbered 84-1855.1, R.C.M. 1947, imposing a penalty; amending Sections 84-1846, 84-1847, 84-1849, 84-1851, 84-1853 and 84-1855, R.C.M. 1947; repealing Section 84-1848, R.C.M. 1947, pertaining to aviation gasoline tax exemption certificates.	817
205		572	An act to amend Section 79-1202, R.C.M. 1947, relating to the investment of surplus treasury cash by providing that the state board of land commissioners determine the existence of surplus treasury cash; repealing Sections 79-303 and 79-304, R.C.M. 1947.	822
206		6	An act providing for construction or replacement of alley approaches without formation of special improvement districts.	826
207		7	An act to approve and legalize and adopt as prima facie the Laws of Montana the second replacement of Part 1 of Volume Number 4 and replacement Volume Number 8 of the R.C.M. 1947, as published by the publishers and distributors of said codes; and providing an effective date.	828
208		55	An act validating, ratifying, approving and confirming bonds and other instruments or obligations, heretofore issued by public bodies of this state, and all proceedings heretofore taken by such public bodies, to authorize and issue such bonds, instruments and other obligations, however described, and providing that this act may be cited as 'the 1971 bond validating act'; containing a repealing clause and providing an effective date.	829
209		189	An act requiring a licensed truck or trailer dealer to secure a demonstration permit for purposes of demonstration only, affixing the fees and terms of said permits, affixing a penalty and repealing Sections 53-118.1, 53-118.2, 53-118.3, 53-118.4 and 53-118.5, R.C.M. 1947, enacted as Section 2, Chapter 36, Laws of 1965.	830
210		199	An act to prohibit insurers from cancelling a professional liability insurance policy or increasing the premium rates thereon because of claims, demands or lawsuits that are determined to be unfounded or where nonliability is established.	832
211		352	An act amending powers and duties of the state board of equalization in Section 84-708, R.C.M. 1947, relating to the assessment and apportionment of public utility companies, by adding an alternative method of apportionment of the valuation for assessment of such company among the several counties of this state in such proportion as in the judgment of the board will fairly represent the valuation for assessment within each such county, utilizing commonly recognized methods of apportioning as in its judgment shall be just and equitable, and to provide an effective date.	832
212		444	An act to amend Section 32-3302.1, R.C.M. 1947, pertaining to alternative licensing fees on truck-trailer combinations; providing that a trailer or semitrailer entering the state and licensed under said section may be moved in the local delivery zone without payment of additional fees.	838
213	78		An act amending Sections 14-143, 14-145, 14-148, 14-149, and 14-150, Revised Codes of Montana, 1947, all relating to the Montana credit union act, providing for regulating the organization of credit unions, defining its powers, management duties of the board of directors, officers and committees and the operation, regulation and inspection of credit unions.	839

HeinOnline -- 1971 vol. I xxiv 1971

Chap.	Senate Bill	House Bill	Title	Page
214	196		An act amending Sections 53-101, 53-108, and 53-114, R.C.M., 1947, relating to the duties of the registrar of motor vehicles, renewal of registration of a motor vehicle and application for registration of motor vehicles.	843
215	199		An act to provide free license plates to permanently and totally disabled veterans of the Armed Forces of the United States whose disability is service connected.	849
216	222		An act to amend Sections 67-2211, 67-2212, 67-2213, 67-2214, 67-2215, 67-2216, 67-2217, 67-2218, 67-2219, 67-2220, 67-2221, 67-2222, 67-2223, 67-2224, 67-2225 and 67-2226, R.C.M., 1947, providing for the disposition of unclaimed property in the state of Montana by transferring the duties from the office of the state treasurer to the state board of equalization.	850
217	286		An act to amend Section 91-403, R.C.M., 1947, relating to succession to and distribution of estates.	858
218	314		An act to provide for recording of abstracts of instruments and providing for constructive notice thereof; amending Sections 16-2902, 73-107, 73-114, 73-115, 73-116, R.C.M., 1947.	859
219		353	An act creating the division of criminal investigation within the office of the attorney general and defining the duties of said division; and providing an effective date.	864
220		169	An act amending Section 5, Chapter 287, Laws of 1967, compiled as Section 32-4705, R.C.M. 1947, relating to the definition of unzoned areas; by amending Section 12, Chapter 287, Laws of 1967, compiled as Section 32-4712, R.C.M. 1947, by providing that the Montana attorney general may seek an early court determination of whether the act is in compliance with the federal highway beautification act of 1965; by amending Section 13, Chapter 287, Laws of 1967, compiled as Section 32-4713, R.C.M. 1947, by providing that the state highway commission may promulgate such regulations as are minimally necessary to avoid the loss of federal-aid highway funds to this state when advised by the Montana attorney general that further court proceedings are not warranted; by amending Section 14, Chapter 287, Laws of 1967, compiled as Section 32-4714, R.C.M. 1947, by providing that no sign shall be removed until federal funds are available as provided in the federal highway beautification act of 1965, and by eliminating the requirement that said Chapter 287, Laws of 1967, be reenacted every two (2) years; and by providing that this act shall be effective upon passage and approval.	865
221	65		An act providing for the licensing and regulation of outfitting and guiding of hunting and fishing parties in the state of Montana; providing for the regulation of nonresident hunters; the protection of private property; the protection of environmental resources; and to repeal Sections 26-901, 26-902 and 26-303.2, R.C.M., 1947, and providing an effective date.	869
222		286	An act relating to the long-range building program; increasing the maximum amount of bonds which may be issued for the program and eliminating the maximum interest rate thereon; clarifying the definition of the special tobacco products tax pledged and appropriated to the sinking fund account for the payment of such bonds; levying and providing for the collection of an additional excise tax upon cigarettes sold or possessed in Montana, and appropriating additional collections of cigarette excise taxes to the long-range building program account in the sinking fund and in the bond and insurance clearance fund; amending Sections 79-2202, 79-2203, 79-2205, 84-5606 and 84-5606.30, R.C.M. 1947, and providing an effective date.	879
223		360	An act authorizing the establishment of student building fees at Montana state university; repealing Chapter 372, Laws of 1969, and providing an effective date.	888
224	70		An act regulating mining operations; providing for the reclamation of mined lands; and repealing Sections 50-1001 through 50-1017, R.C.M., 1947; and providing an effective date.	888
225	171		An act amending Sections 69-1501, 69-1502, 69-1503, 69-1504, 69-1505, 69-1507, 69-1508, 69-1509, 69-1510, 69-1511, 69-	

Chap.	Senate Bill	House Bill	Title	Page
			1512, 69-1513, 69-1514, 69-1515, 69-1516, 69-1517, 69-1601, 69-1602, 69-1603, 69-1604, 69-1607, 69-1701, 69-1702, R.C.M., 1947, and repealing Sections 69-1518, 69-1605 and 69-1703, R.C.M., 1947, to clarify and update sections of the laws of Montana relating to boilers and engines.	897
226	194		An act amending Sections 53-106, 53-118, 53-120 and 53-122 relating to motor vehicle number plates, motor vehicle dealer's license, replacing motor vehicle number plates, and registration fees of motor vehicles.	914
227	234		An act to amend Section 72-118, R.C.M., 1947, relating to power of the board of railroad commissioners to change, alter or amend classifications, rates and rules for transportation by railroad; providing methods for changing such classifications, rates and rules and for investigation by the board of railroad commissioners; repealing all acts or parts of acts in conflict herewith and providing that the act shall be effective on passage and approval.	923
228	270		An act amending Section 54-133, R.C.M., 1947, to change the penalty for possession of marihuana.	926
229	296		An act to amend Section 11-1001, R.C.M., 1947, relating to authorization of cities and towns to furnish sewage services in addition to water to industries and to persons without city limits; rates; penalty for violations.	927
230	302		An act creating a division of communications in the department of administration; providing for the appointment of an administrator for the division; providing for the powers and duties of the division; providing for the implementation of this act; providing that this act shall not affect the rights and privileges of employees transferred to the division.	928
231	305		An act amending Section 75-8601 of the higher education laws recodification of the Forty-second session, Laws of Montana. To propose the stimulation of enrollment in mineral engineering; to provide for the waiving of nonresident tuition in excess of two percent of unit enrollment for out-of-state students who enroll in mineral engineering curricula at Montana College of Mineral Science and Technology under reciprocal agreement among mineral engineering colleges of eight WICHE states for the urgent development of undergraduate programs in mineral engineering.	931
232	322		An act to create a capitol building and planning committee, establishing functions and guidelines under the general supervision of this legislative council; and providing an immediate effective date.	931
233		9	An act amending Sections 47-202, 47-204, 47-205, 47-211, 47-214, 47-215 and 47-216, R.C.M. 1947, being sections of the Montana consumer loan act, providing for a supplementary license permitting additional lending authority involving loans in excess of one thousand dollars ($1,000) but not exceeding two thousand five hundred dollars ($2,500), fixing the charges for and other provisions concerning such loans in excess of one thousand dollars ($1,000) and relating to insurance which may be provided and increasing examination charges of the commissioner.	933
234		15	An act relating to the maximum rate of interest on bonds issued and special assessments levied and other evidence of indebtedness by political subdivisions and providing an effective date, and amending Sections 11-2304, 11-2404, 16-2011, 75-7107, 75-7115, 75-7116, 75-7119, 75-7121, 11-2315, 16-2032, 11-982, 11-1307, 11-2218, 11-2214.2, 11-2226, 11-2227, 11-2231, 11-2249, 11-2277, 11-3717, 11-3910, 16-1620, 16-2002, 16-2046, 16-2604, 16-4517, 32-3121, 32-3123, 32-3502, 32-3805, 81-1003, 89-1701, 89-1705, 89-1801, 89-2348, 89-2501, 35-115, 47-124, 89-2502 and 89-3426, R.C.M. 1947.	939
235		29	An act to amend Section 84-1502, R.C.M. 1947, providing deductions in computing income of corporations; and providing an effective date.	977
236		30	An act amending Section 84-4905, R.C.M. 1947, exempting from state income tax the interest received on obligations of the state of Montana or of any political subdivision thereof, and providing an effective date.	979

HeinOnline -- 1971 vol. I xxvi 1971

Chap.	Senate Bill	House Bill	Title	Page
237		42	An act to amend Section 40-2821, R.C.M. 1947, to provide that the temporary tax on net insurance premiums of two and three-quarters percent (2¾%) be made permanent; and providing an effective date.	981
238		66	An act to establish a state policy for the environment and to establish an environmental quality council and setting forth its powers and duties and providing an effective date.	984
239		96	An act providing for special or rural improvement district type bonding for flood control and water conservation projects; amending Section 89-3312, R.C.M. 1947.	992
240		98	An act to change age requirements to nineteen (19) years of age and to bar discrimination in ages due to sex; amending Sections 4-161, 4-330, 4-337, 4-413, 4-439, 4-502, 4-504, 4-506, 11-951, 11-1602, 41-1135, 41-1136, 48-143, 59-301, 61-203, 64-101, 75-8702, 81-407, 81-908, 93-1301, 93-1002, 94-35-106, 94-35-106.2, R.C.M. 1947.	993
241		113	An act to amend Sections 66-1501, 66-1502, 66-1504, 66-1506, 66-1507, 66-1508, 66-1509 and 66-1521, R.C.M. 1947, (Montana pharmacy law) by substituting the word 'intern' for 'assistant pharmacist'; and to amend Sections 66-1504 and 66-1506, providing for the regulation of interns in accordance with national standards, and to amend Section 66-1506 to increase the registration fee for examination, and to amend Section 66-1507 to increase the renewal of registration fee, to provide a penalty for late renewal, and to reduce the reinstatement period.	1005
242		118	An act authorizing the highway commission to grant certain employees of the state highway commission the power of arrest in specified instances, providing for rules and regulations, establishing qualifications to accept bail, issue summons, file complaints, and providing for cooperation with other peace officers.	1013
243		177	An act to require recording of the school district of residence when registering electors; and amending Sections 23-3023 and 23-3027, R.C.M. 1947, providing for precinct registers.	1015
244		195	An act amending Sections 32-3707 and 53-118, R.C.M. 1947, to authorize the use of dealers' license plates by special mobile equipment dealers.	1017
245		203	An act amending Section 31-103, R.C.M. 1947, to authorize the Montana highway patrol board to make rules and regulations; and providing an effective date.	1022
246		213	An act to amend Section 23-3706, R.C.M. 1947, relating to the mailing of an absentee ballot to an elector, providing for the use of protective inserts and instructions on procedures in instances of adhesion of the balloting material and the type of writing instrument to be used to mark the absentee ballot.	1023
247		214	An act to amend Title 23, Chapter 37, R.C.M. 1947, by adding a new section relating to absentee voting and registration, providing for the registration of electors whose United States services or employment has terminated too late to register in person to vote in the next ensuing election.	1024
248		215	An act to amend Section 23-3720, R.C.M. 1947, relating to oaths for electors in United States service, providing for the administration and attestation of such oaths by any member of the Merchant Marine of the United States designated for this purpose by the secretary of commerce, the head of any department or agency of the United States, any civilian employee designated by the head of any department or agency of the United States as well as any commissioned officer in active service and any civilian official empowered by state or federal law to administer oaths.	1025
249		216	An act to amend Section 23-3718, R.C.M. 1947, relating to the definition of "electors in the United States Service", providing for the franchising of additional electors.	1026
250		217	An act to amend Section 23-3721, R.C.M. 1947, relating to the use of the federal post card application by registrars	

HeinOnline -- 1971 vol. I xxvii 1971

Chap.	Senate Bill	House Bill	Title	Page
			after receipt of such cards from electors in the United States service, providing for the acceptance of the federal post card application as simultaneous application for registration and for ballot.	1026
251		234	An act amending Section 94-1436, R.C.M. 1947, to increase the length of time itemized statements of candidates for public office must be held as public records.	1027
252		243	An act requiring the licensing of persons engaged in mining exploration and related activities; requiring permits for the conduct of development, mining and related activities; providing for the reclamation of explored, developed, and mined land; providing for the administration and enforcement of said act by the board of state lands and investments; and providing for an appeal procedure; and providing an effective date.	1028
253		390	An act to amend Section 32-2148, R.C.M. 1947, eliminating the fifty (50) mile per hour speed limit for trucks over eight thousand (8,000) pounds, and providing a speed limit for such trucks at sixty-five (65) miles per hour on interstate and four-lane highways and sixty (60) miles per hour on primary and secondary highways.	1045
254		399	An act amending Sections 23-3013, 23-3509, 23-3610, 23-3709 and 23-3321, R.C.M. 1947, of the election laws pertaining to cancellation of registry for failure to vote, printing of candidate's name and party designation on ballot, marking precinct register book before elector votes, absentee ballots and declining nominations and vacancies before and after primary.	1046
255		417	An act providing for supplementing provisions of the special improvement district revolving fund to include sidewalk, curb and alley approach warrants; amending Sections 11-2269, 11-2270, 11-2271 and 11-2272, R.C.M. 1947.	1050
256		432	An act to amend Section 5-908, R.C.M. 1947, to provide for fees to be paid by banks, investment companies and trust companies for credit to the general fund, consisting of a four hundred dollar ($400) supervision fee to be paid on or before June 30 of each year, and an examination fee of ten cents (10c) per one thousand dollars ($1,000) of total assets as of the date of the examination to be paid at the conclusion of the examination; to amend Sections 82-1002, 82-1008, 89-2107, 5-910, R.C.M. 1947, to increase the regular examination charges for counties, cities, towns, county-free high schools, school districts, for each person engaged in the examination and to require that all moneys collected be credited to the general fund of the state; to repeal Sections 5-903, 5-904, 5-905, 5-906, 5-907, R.C.M. 1947.	1053
257		478	An act to amend Section 23-3001, R.C.M. 1947, to require county by county compilation of persons reaching voting age by the Montana highway patrol.	1059
258		520	An act amending Sections 23-3201, 23-3202, 23-3203, 23-3204 and 23-3206, R.C.M. 1947, to include election clerks similar to the appointment and instruction of election judges.	1060
259		537	An act to extend a contractual right to attorney fees granted to one party to a contract to the prevailing party in any lawsuit on such contract whether or not the contract expressly provides for such fees as to such prevailing party.	1062
260	34		An act amending Section 91-3906, R.C.M., 1947, to provide that the order discharging an executor or administrator must be made within two years.	1063
261	47		An act to include as persons eligible for medical assistance benefits persons who are in state operated institutions; and not requiring counties to reimburse the state for payments made on behalf of persons in state operated institutions; amending Sections 71-211, 71-402, 71-604, 71-1202, 71-1512, 71-1516, 71-1517, 71-1519, R.C.M., 1947.	1064
262	51		An act to establish a law concerning cancellation of automobile liability insurance policies.	1070
263	155		An act to amend Sections 75-7125 and 75-8305, R.C.M., 1947, to allow trustees of school districts to employ licensed	

HeinOnline -- 1971 vol. I xxviii 1971

Chap.	Senate Bill	House Bill	Title	Page
			attorneys to assist the county attorney in connection with school board business.	1073
264	156		An act to include payment for clothing and personal needs by the county for the care of dependent and neglected children, amending Sections 10-524 and 10-525, R.C.M., 1947.	1074
265	169		An act amending Section 25-605, R.C.M., 1947, to increase the salaries of county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county assessors, county superintendents of schools, and of county surveyors in counties where county surveyors now receive salaries.	1074
266	212		An act amending Sections 84-2412 and 84-3508, R.C.M., 1947, to delete provisions enabling the state board of equalization to pay operating expenses out of fees collected prior to their deposit as revenue to the general fund.	1077
267	213		An act to amend Sections 59-701.1, 59-701.2, and 82-109, R.C.M., 1947, to provide for the implementation of a modified accrual basis of accounting for state expenditures pursuant to the provisions of house joint resolution number 9, adopted by the 1969 legislative assembly.	1077
268	215		An act to amend Sections 79-414, 79-415, 79-603, and 82-110, R.C.M., 1947, to establish more precise fiscal control measures and accounting procedures.	1079
269	220		An act to amend Section 79-1202, R.C.M., 1947, to provide that moneys in the long and short term investment funds may be invested in interest bearing certificates of deposit and to provide that moneys in the long term investment fund may be invested in obligations of the United States postal service.	1082
270	221		An act to amend Section 79-2312, R.C.M., 1947, providing that state agencies shall assist the legislative auditor in obtaining information for audit purposes; repealing Section 79-2313, R.C.M., 1947.	1086
271	231		An act to revise the sanitarians registration council act by placing administration of the act with the department of health under policy guidance from the board of health; amending Sections 69-3401, 69-3402, 69-3403, 69-3404, 69-3405, 69-3407, 69-3408, and 69-3409, R.C.M., 1947.	1090
272	274		An act to reorganize the executive department of Montana state government in accordance with the constitutional amendment, Chapter 1 of the extraordinary session, Laws of Montana, 1969, adopted at the general election of November 3, 1970, and effective under the governor's proclamation, November 20, 1970, which provides that: 'All executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities of the executive department of state government and their respective functions, powers, and duties, except for the office of governor, lieutenant governor, secretary of the state, attorney general, state treasurer, state auditor, and superintendent of public instruction, shall be allocated by law among and within not more than twenty (20) departments by no later than July 1, 1973.'; and repealing Sections 27-427, 59-901, and 59-902, R.C.M., 1947.	1090
273		79	An act providing for building restrictions and zoning and subdivision regulations by cities, towns and counties; providing for boards of adjustment and the duties thereof; providing for city, county and city-county planning boards; providing definitions; providing qualifications for members of boards; providing for a master plan and a jurisdictional area; providing for plats of subdivisions; providing for planning and zoning districts; amending Sections 11-2702, 11-3801, 11-3810, 11-3811, 11-3812, 11-3815, 11-3825, 11-3842, 11-3843, 11-3844, 11-3846, 11-3847, 11-3848, 11-3851, R.C.M. 1947, and adding new Section 11-3830.2, and amending Sections 16-4101, 16-4702, 16-4703, 16-4705, R.C.M. 1947.	1162
274		160	An act to require the enrichment of flour and bread to meet certain standards of vitamin and mineral content; and to fix penalties for violation of this act.	1176
275		205	An act amending the motor carrier act requiring motor carriers transporting livestock for hire to obtain a certificate of public convenience and necessity, providing for grandfather rights and providing exemptions.	1180

Chap.	Senate Bill	House Bill	Title	Page
276		239	An act to amend Section 28-125, R.C.M. 1947, providing for clarification of those laws which ex officio fire wardens shall enforce.	1183
277		351	An act relating to all users of special fuels including liquid petroleum gases as defined by Section 84-1831 (h), R.C.M. 1947, as amended, providing for the imposition, payment and collection of a tax upon the receipt, delivery or placement of liquid petroleum gases into the fuel system supply tanks of motor vehicles for use in propulsion of same on public highways within the state of Montana; providing for the making of a return, and payment of tax by a user thereof in motor vehicles for propulsion on public highways within the state, supplied to the user in a manner and from a supply system other than the direct placement by a special fuel dealer into the fuel supply system tank of a motor vehicle and providing for authority of the board of equalization of the state of Montana to provide forms by which the user can comply with the law and pay the lawful tax imposed upon special fuels; and authority of enforcement by the board of equalization and penalties for violation; and amending Sections 84-1832, 84-1832.1, 84-1833 and 84-1835, R.C.M. 1947, and providing an effective date.	1184
278		401	An act validating and declaring legal all levies and expenditures heretofore made and engagements entered into by counties, cities or towns for the purposes of the municipal airport act and all elections held in counties, cities or towns for the purpose of creating indebtedness for such purposes wherein a majority of the vote cast was in favor of such indebtedness; and providing for an effective date.	1193
279		438	An act to amend Section 26-104, R.C.M. 1947, giving the fish and game commission the power to regulate motor-driven boats on all public fishing reservoirs, public lakes, rivers and streams.	1193
280		487	An act to amend Section 11-2201, R.C.M. 1947, to provide that city or town councils may levy and assess costs of installing and maintaining street lighting along certain streets or public highways upon properties not within the city limits.	1200
281		490	An act to amend Sections 35-128 and 35-129, R.C.M. 1947, relating to housing authorities; further defining the area of operation of county housing authorities, and clarifying the power of county housing authorities to undertake housing projects and to contract with the federal government upon the approval of the board of county commissioners; and to provide an effective date.	1203
282	249		An act amending Section 75-7810, R.C.M., 1947, by requiring the home counties of mentally and physically handicapped children to pay tuition to local school districts where such children attend regardless of whether such children are residing at a state institution and shall include transportation payments.	1207
283	7		An act to amend Section 32-2605, R.C.M., 1947, to provide for payment of judgments obtained by construction contractors, and the apportionment thereof to state highway construction funds and providing an effective date.	1207
284	92		An act establishing that the use of certain whole blood, plasma, blood products, and blood derivatives by physicians and hospitals for the purpose of injecting or transfusing any of them into the human body is a service and not a sale; providing that blood banks shall not be liable for such products disbursed by them in the absence of negligence if such products have been tested by certain testing procedures and found by such tests to not be dangerous to the health of a prospective recipient, and requiring the labeling by such blood banks of such products sold.	1208
285	99		An act to provide that all salaries of members of the highway patrol be paid out of funds of the highway department.	1209
286	142		An act amending Section 75-8601, R.C.M., 1947, relating to waiver of nonresident tuition for students.	1210
287	175		An act to amend Section 66-905, R.C.M., 1947, relating to the admission of dentists to practice in the state.	1210

HeinOnline -- 1971 vol. I xxx 1971

Chap.	Senate Bill	House Bill	Title	Page
288	248		An act to amend Section 31-135, R.C.M., 1947, increasing the life of a driver's license from two to four years; and providing a renewal provision.	1213
289	251		An act to amend Section 75-8427, R.C.M., 1947, by deleting unnecessary language.	1214
290	252		An act amending Sections 16-4801, 16-4803, 16-4804 and 16-4805, R.C.M., 1947, removing the county clerk as the clerk of the park board; providing for the employment of a secretary and/or superintendent to provide for the disbursement of funds; relating to the validity of claims to be paid; and providing an effective date.	1215
291	281		An act to amend Section 81-502, R.C.M., 1947, to provide for the exchange of state coal leases issued prior to July 1, 1967, for a term of ten years or less, for leases having a term of twenty years.	1219
292	290		An act to establish emergency assistance for families with children and to provide for the county share of participation in grants for such persons.	1220
293		11	An act amending Section 93-1205, R.C.M. 1947, providing for the number of trial jurors.	1221
294		68	An act to remove the residence requirement for persons applying for old age assistance; amending Section 71-402, R.C.M. 1947; and providing an effective date.	1221
295		110	An act amending Section 59-538, R.C.M. 1947, by authorizing the reimbursement of certain expenses to the lieutenant governor and increasing the maximum amount of reimbursable expenses of certain elective officials.	1223
296		168	An act to provide for a constitutional convention; making appropriations in connection therewith; providing for an immediate effective date; and further providing for an automatic repealer.	1224
297		200	An act to amend Section 40-4917, R.C.M. 1947, exempting benevolent associations from licenses and fees and to add a new section numbered 40-4918 requiring an annual license for benevolent associations and providing an effective date.	1234
298		313	An act to provide for the continuation of coverage under individual and group health insurance and hospital and medical service plan contracts for mentally retarded or physically handicapped dependent children; amending Chapter 37, Title 40, R.C.M. 1947.	1236
299		373	An act to amend Section 23-3014, R.C.M. 1947, relating to the cancellation of registry of persons convicted of a felony.	1238
300		437	An act amending Section 93-5010, R.C.M. 1947, providing for peremptory challenges.	1239
301		449	An act to amend Section 82-1917 and 82-1918, R.C.M. 1947, relating to the manner of letting contracts for the requisition for supplies and extending the period for which contracts may be made.	1239
302	19		An act to extend the time for preparation of preliminary survey for a water conservancy district and amending Section 89-3405, R.C.M., 1947.	1242
303	20		An act to extend the time for preparation of feasibility study for a water conservancy district and amending Section 89-3407, R.C.M., 1947.	1243
304	24		An act relating to possession of explosives and destructive devices with intent to injure persons or property; setting penalties therefor.	1244
305	68		An act amending Section 26-302, R.C.M., 1947, to require big game hunter to wear not less than four hundred square inches of hunter orange material on his person; making an exception for archers hunting during a season for archers only; and providing that a failure to wear hunter orange material shall not be evidence of contributory negligence in a civil action and providing an effective date.	1245

HeinOnline -- 1971 vol. I xxxi 1971

Chap.	Senate Bill	House Bill	Title	Page
306	93		An act to revise the water and waste water operators certification act by attaching the certification board to the state board of health: amending Section 69-5903, 69-5908, and 69-5910.	1246
307	128		An act to provide for the filing of certain forms with the Montana water resources board relative to ground water appropriation; amending Sections 89-2911 and 89-2913, R.C.M., 1947.	1249
308	133		An act to amend Section 92-411, R.C.M., 1947, so as to define an "employee" to include vocational rehabilitation and other on-the-job trainees, whether or not under any appointment or contract of hire, and provide that members of a partnership and owners of sole proprietorships may elect to be considered an "employee" for workmen's compensation coverage purposes; and providing an effective date.	1253
309	144		An act to provide for the protection and conservation of all birds of the orders falconiformes, strigiformes, anseriformes, ciconiiformes and coraciiformes (commonly called hawks, owls, waterfowl, herons and kingfishers, respectively); protection and conservation of certain birds of the order passeriformes (Jays); to change exemptions from general provisions to read predatory mammals instead of predatory animals; to change the names of certain birds exempted from general provisions to conform to the American ornithological union's nomenclature; to exempt certain introduced birds of the order passeriformes (starlings) and columbiformes (rock doves) from general provisions; to provide for licensing and regulation of the sport of falconry; and to amend Sections 26-215 and 26-501, R.C.M., 1947.	1255
310	170		An act amending Sections 50-101, 50-102, 50-108, and 50-118, R.C.M., 1947, adding Section 50-119 and repealing Sections 50-103, 50-104, 50-105, 50-106, 50-107, 50-109, 50-110, 50-111, 50-112, 50-113, 50-114, 50-115, 50-116, 50-117, R.C.M., 1947, to update the law so that it conforms and is equal to the federal metal and nonmetallic safety act in order that Montana may qualify as and have what is known as a "state approved plan."	1258
311	174		An act to regulate trade in drugs by prohibiting the dispensing of drugs by medical practitioners and their participation in profits from the dispensing of such products, except under certain circumstances, and for other purposes.	1264
312	179		An act to amend Section 84-301, R.C.M., 1947, to include trailers affixed to land, mobile homes, clarification of eligibility and increasing maximum retirement benefits eligible for classification of property, and providing an effective date.	1267
313	180		An act to amend Sections 82-3303 and 82-3306, R.C.M., 1947, by adding two statutory divisions to the department of administration; requiring the controller to provide central data processing, duplicating and copying facilities to state agencies in the capitol complex and to establish regulations relating to the procurement and utilization of data processing equipment, programs and data processing communications networks.	1271
314	183		An act to amend Section 25-501, R.C.M., 1947, as amended to increase salaries of certain elected state officials.	1272
315	202		An act providing that minors may give legal consent to obtain psychiatric or psychological counseling where need for such counseling is urgent; that such consent shall be binding on the minor and not subject to later disaffirmance by reason of such minority; that the consent of no other person shall be necessary in order to authorize care or services provided to such minor; providing that physicians or licensed psychologists who provide care or services under the terms of this act shall incur no civil or criminal liability, except that such immunity shall not apply to negligent acts or omissions.	1273
316	203		An act providing for the conservation of the health of workers of the state; providing for prevention, abatement, and control of occupational diseases; providing penalties for violation; and repealing Sections 69-4201, 69-4202, 69-4203, and 69-4205, R.C.M., 1947.	1274

HeinOnline -- 1971 vol. I xxxii 1971

Chap.	Senate Bill	House Bill	Title	Page
317	263		An act to amend Sections 84-301 and 84-302, R.C.M., 1947, providing a classification for one hundred percent disabled veterans.	1286
318		19	An act to amend Section 10-622, R.C.M. 1947, relating to the appointment, removal and salaries of probation officers for the juvenile departments of district courts in the state of Montana: Providing for salary increases and repealing all acts and parts of acts in conflict herewith.	1291
319		22	An act making it unlawful to use junked motor vehicles for flood control of a stream or for reinforcement of the banks of a stream.	1292
320		34	An act providing for the transfer of authority of state owned motor vehicles to the highway commission; providing for the establishment of a state motor pool for maintenance and storage; providing for regulation and use of vehicles; providing for lettering and identification; providing for records; providing for exceptions; establishing a penalty and repealing Sections 53-501, 53-503, 53-504, 53-505, 53-506, 53-507, 53-508 and 53-510, R.C.M. 1947, and Sections 53-511, 53-512 and 53-513, R.C.M. 1947, enacted as Chapter 181, Laws of 1969.	1293
321		61	An act to amend Section 32-1126, R.C.M. 1947, authorizing peace officers, highway patrol and certain state employees to weigh vehicles and loads for statutory weight compliance and authorizing maintenance of weigh stations on intermittent or continuous schedules.	1295
322		106	An act amending Section 4-403, R.C.M. 1947, to provide for the issuance of resort liquor licenses by the Montana liquor control board and providing an effective date.	1296
323		112	An act to define, control and prohibit the littering of public and private property, providing a penalty therefor, and repealing Sections 32-1629, 32-1629.1, 32-1630 and 32-1631, R.C.M. 1947.	1301
324		137	An act relating to fees, licenses and certificates of registrations to be paid by various members of the cosmetology profession, adding thereto a registration fee for each student enrolling in a registered cosmetology school, amending Section 66-815, R.C.M. 1947.	1303
325		143	An act to amend Section 84-2102, R.C.M. 1947, to provide for a natural gas distributors' license tax, of five hundred seventy-five thousandths (.575) of one cent for each one thousand (1,000) cubic feet of natural gas, and providing an effective date.	1305
326		144	An act to amend Sections 84-2601 and 84-2602, R.C.M. 1947, to provide for a telephone company license tax, of one and seven hundred twenty-five thousandths percent (1.725%) of gross income in excess of two hundred fifty dollars ($250), and providing an effective date.	1306
327		166	An act to amend Section 75-6107, R.C.M. 1947, providing for timely hearing upon appeal.	1308
328		190	An act to prescribe the period of limitations in which actions for professional negligence can be commenced.	1308
329		208	An act to provide for removal of elective officers of cities and towns under a mayor-council form of government.	1309
330		258	An act to amend Section 11-2214, R.C.M. 1947, relating to the methods of payment of special improvement districts	1310
331		266	An act amending Section 75-5206, R.C.M. 1947, to provide that the Montana law enforcement academy advisory board select and hire such staff as it deems necessary to implement the state of Montana law enforcement academy act.	1314
332		279	An act increasing jurors' and witnesses' fees in state district courts and courts not of record in the state of Montana by amending Sections 25-401, 25-403, 25-404, 25-409, 25-410, R.C.M. 1947.	1316
333		287	An act to amend Section 84-1501, R.C.M. 1947, to provide that the temporary corporation license tax of six and one-quarter percent (6¼%) of net income be retained at six	

HeinOnline -- 1971 vol. I xxxiii 1971

Chap.	Senate Bill	House Bill	Title	Page
			and one-quarter percent (6¼%), and made permanent, and providing an effective date	1317
334		299	An act to amend Section 32-1127, R.C.M. 1947, defining vehicles, combination of vehicles, loads, objects or any other things for special permits in excess of statutory limits, providing conditions for issuing such special permits, establishing fees and providing exemptions and providing a penalty.	1319
335		316	An act requiring prospectors, miners, or other persons in this state to advise the owner of the land surface in advance of any operations which will disturb the surface of such land and obtain authorization to operate thereon.	1324
336		320	An act amending Section 69-4118, R.C.M. 1947, by including jails among the buildings and facilities subject to sanitary inspections by the state department of health.	1325
337		329	An act to amend Section 28-603, R.C.M. 1947, relating to the protection and conservation of forest and farm resources by the county commissioners.	1326
338		337	An act providing that the owner of real property against which a mechanics' lien has been filed may substitute a bond for the security of the lien and that said real property shall then be released from the effect of such lien, together with any improvements thereon, and providing, in such instance, that the lien claimant shall have an action upon the bond rather than an action to foreclose a lien, and providing that the statute of limitations for foreclosure of a mechanics' lien shall apply to an action upon such bond.	1327
339		348	An act amending Section 84-4820, R.C.M. 1947, to provide an extension of time for filing annual statement of railway freight car leases and payment of tax; and providing an effective date.	1328
340		355	An act relating to sheriff's motor vehicles; amending Section 16-2724, R.C.M. 1947, to allow county commissioners to furnish motor vehicles to sheriff's office without consent of sheriff; and adding a new section providing liability insurance for privately owned motor vehicles used by sheriffs.	1330
341		363	An act to amend Section 75-6810, R.C.M. 1947, to provide for payment of salaries of school district employees by deposit directly to employees' account in local banks upon employee authorization.	1331
342		364	An act to amend Section 75-7309, R.C.M. 1947, relating to the investment of endowment funds of school districts.	1332
343		374	An act relating to the time for city elections, amending Section 11-709 and Section 23-3302, R.C.M. 1947.	1333
344		377	An act to amend Section 24-107, R.C.M. 1947, relating to guy insulation, by providing for the use of fiberglass insulators.	1335
345		406	An act amending Section 84-4905, R.C.M. 1947, to remove the exemption of dividends from capital stock of national banks in Montana from adjusted gross income for income tax purposes; and providing effective dates.	1336
346		412	An act amending Section 94-35-269, R.C.M. 1947, to include the hunting of all wildlife providing for the prosecution of careless, reckless and negligent hunters and for imposing penalties thereon, and requiring purchaser of a hunting license be informed of penalties of this act.	1338
347		416	An act amending Secttion 1-201, R.C.M. 1947, to increase the daily and annual per diem allowance for members of the state aeronautics commission.	1338
348		429	An act to establish uniform construction standards in mobile homes.	1339
349		430	An act to amend Section 75-6323, R.C.M. 1947, relating to school extracurricular fund for pupil functions; and providing for an increase in the audit fee to eighty dollars ($80) per day per man the state examiner may charge, and such audit fee deposited to the general fund of the state.	1341

HeinOnline -- 1971 vol. I xxxiv 1971

Chap.	Senate Bill	House Bill	Title	Page
350		457	An act amending Section 75-8705, R.C.M. 1947, providing for educational opportunity at university system units for Montana Indian students of at least one-quarter (¼) degree Indian blood.	1343
351		466	An act amending Section 75-8511, R.C.M. 1947, by deleting Sections (3) and (4) in their entirety.	1343
352		481	An act to amend Section 75-5602, R.C.M. 1947, relating to the membership of the board of education.	1344
353		517	An act amending Section 75-6503, R.C.M. 1947, to reduce the population classification of first (1st) class elementary districts from eight thousand (8,000) to six thousand five hundred (6,500).	1345
354		580	An act to amend Section 84-301, R.C.M. 1947, relating to classification of property for taxation.	1346
355		581	An act to amend Sections 84-1302 and 84-1303, R.C.M. 1947, to provide for changed rates of license taxation and setting such new rates; to provide for a changed exemption and setting such exemption and how it may be applied; providing that the Montana state bureau of mines and geology shall be testing agency for this act and giving the bureau rule-making authority for the purposes of this act; and requiring that samples of coal be submitted to that bureau; and providing for a limitation on reclamation tax credit.	1351
356		610	An act relating to the issue and sale by the state board of examiners of limited obligation highway bonds in a sum not exceeding seven millon seven hundred ten thousand four hundred forty-two and no/100 dollars ($7,710,442.00) for the purpose of acquiring a necessary site for and erecting and equipping a state highway commission headquarters building and complex; providing that said bonds shall be payable solely from net proceeds from gasoline taxation; pledging and appropriating a portion of such net proceeds to a special sinking fund account; reserving to the state the power of issuing additional highway bonds payable from the sinking fund account when authorized by law, or of refunding such bonds; amending Sections 1, 3, 4, 6 and 7, Chapter 377, Laws of 1969, and Section 32-2601, R.C.M. 1947, enacted by Section 4-301, Chapter 197, Laws of 1965; and providing an effective date.	1353
357		616	An act amending Sectcion 84-4908, R.C.M. 1947, by deleting a provision relating to a federal income tax deduction; providing effective dates.	1359
358	88		An act amending Section 84-1502, R.C.M., 1947, to provide for a net operating loss deduction in computing net income for corporation license tax purposes, and to delete the deduction in subsection (6) relating to insurance companies which deduction has no application to the law.	1360
359	109		An act to amend Section 92-706, R.C.M., 1947, so as to delete the five thousand dollars limitation in payment of medical benefits; delete references to hospital contracts; and provide for stabilization of hospital fees and charges.	1363
360	111		An act to amend Section 71-1001, R.C.M., 1947, and Section 71-1003, R.C.M., 1947, to define the disability necessary to qualify for silicosis benefits, and provide for payment of benefits to beneficiaries in certain cases.	1364
361	112		An act to prohibit the removal of patients from state custodial institutions without permission of the staff.	1365
362	113		An act to prohibit the sale or distribution of alcoholic beverages and drugs to patients at state custodial institutions.	1366
363	116		An act to amend Section 92-1403, R.C.M., 1947, to delete the words "away from home"; and increasing the allowed expenses of a workman receiving training.	1366
364	226		An act to amend Sections 66-2326, 66-2337 and 66-2344, R.C.M., 1947, to provide for a comprehensive definition of the term "practice of engineering", to provide for the increase of fees for registration, and to provide for the repeal of all acts and parts of acts in conflict therewith.	1367

HeinOnline -- 1971 vol. I xxxv 1971

Chap.	Senate Bill	House Bill	Title	Page
365	229		An act amending Section 25-604, R.C.M., 1947, relating to salaries of deputies.	1370
366	232		An act to provide compensation for loss of hearing resulting from exposure to industrial noise.	1371
367	242		An act amending Section 80-2210, R.C.M., 1947, relating to recommutation of sentence of persons under the age of twenty-one years who had been sentenced to prison and to the commitment of such person to the department of institutions and to the transfer of such person to a juvenile facility by providing that prisoners of the state prison of the age of twenty-five or younger may be transferred from the prison to Swan River youth forest camp and providing an effective date.	1375
368	246		A bill to amend Section 10-611, R.C.M., 1947, by providing for temporary commitment to the department of institutions of a child of the age of sixteen or over for a period not to exceed thirty days for the purpose of evaluation as to such child's suitability for commitment to a youth forest camp; providing for return to the court of such children found not suitable for such placement; providing for commitment to a youth forest camp of such children found suitable; providing for payment of transportation costs and providing an effective date.	1376
369	253		An act to amend Section 11-1821, R.C.M., 1947, providing that after completing twenty years or more of active service if a policeman or officer elects to serve an additional one to ten years then the payment from the police reserves fund shall be increased at the rate of one percent per year of such additional service up to a maximum of sixty percent of the last year's average salary received as a monthly compensation for service as an active member of the police department.	1379
370	282		An act to allow the Montana water resources board, upon its own motion, to inspect and determine safety of dams or dikes; amending Section 89-702, R.C.M., 1947.	1381
371	288		An act amending Section 11-1202, R.C.M., 1947, to increase the monetary limitation on purchases.	1382
372	301		An act to require that the superintendent of public instruction shall coordinate educational television in the state, and providing for the appointment of an advisory committee.	1384
373	317		An act to assure eligibility for aid to dependent children assistance for the care of children whose father is unemployed but seeking employment, and, to provide for the county share of participation in grants for such persons, and amending Section 71-508, R.C.M., 1947, and providing for the effective dates of the act.	1385
374	318		An act to require thirty day notice of cancellation or nonrenewal of fire insurance policies and providing a penalty for violation under Section 40-2617, R.C.M., 1947.	1387
375	321		An act relating [to] the cities' and towns' all-purpose levy; amending Sections 84-4701.1, 84-4701.2, 84-4701.3, 84-4701.5 and 84-4701.6, R.C.M., 1947.	1387
376	325		An act to amend Section 4-108, R.C.M., 1947, providing salaries of state liquor employees.	1389
377	329		An act to amend Section 91-512, R.C.M., 1947, to delete the salary limitation for the special assistant attorney general assigned the function of working with escheated estates.	1390
378		65	An act to remove the residence requirement for persons applying for aid to the needy blind; amending Section 71-604, R.C.M. 1947; and providing an effective date.	1391
379		69	An act to remove the residence requirement for persons applying for aid to disabled; amending Section 71-1202, R.C.M. 1947; and providing an effective date.	1392
380		81	An act to authorize the creation of funds to promote, establish and maintain recreational and other activities of the elderly, and providing for a special levy.	1393

HeinOnline -- 1971 vol. I xxxvi 1971

Chap.	Senate Bill	House Bill	Title	Page
381		93	An act to amend Section 53-420, R.C.M. 1947, increasing the fee requirement of operating record from one dollar ($1) to two dollars ($2).	1394
382		104	An act to amend Section 11-1024, R.C.M. 1947, relating to group hospitalization, medical, health, accident and/or group life insurance contracts or plans for the benefit of public employees and their dependents by increasing the employer contribution thereto; by including long-term disability insurance and defining how monies may be paid for premiums from state appropriations.	1394
383		140	An act to amend Section 8-127, R.C.M. 1947, to provide for a tax on gross operating revenue of motor carriers of five hundred seventy-five thousandths (.575) of one percent, and providing an effective date.	1395
384		254	An act to amend Section 84-1840, R.C.M. 1947, providing that not more than ten percent (10%) or one thousand dollars ($1,000) of funds allocated each fiscal year to any county, incorporated city or town shall be expended for maintenance and repair of roads or streets, and providing not more than seven thousand five hundred dollars ($7,500) of allocated funds may be expended each fiscal year to any county, incorporated city or town without being submitted to bids; and amending paragraph (8) of said section relating to the reduction of allocated funds.	1396
385		397	An act to amend Section 23-3016, R.C.M. 1947, providing for the close of registration of voters by changing the close of registration dates; and redefining the period of notice; and providing an effective date.	1400
386		541	An act amending Section 11-4101, R.C.M. 1947, pertaining to industrial development projects; including among such projects commercial enterprises.	1400
387	159		An act to establish minimum uniform standards and regulations for ambulance services as required by public interest.	1401
388	185		An act to amend Section 82-1002, Revised Codes of Montana, 1947, relating to the duties of the state examiner and his assistants.	1406
389	219		An act to amend Section 75-6303, R.C.M., 1947, providing a district judge with the discretionary power to excuse a child from compulsory school attendance.	1408
390		60	An act to amend Section 87-105 of the unemployment compensation law, R.C.M. 1947, by amending the benefit eligibility conditions to require requalifying work as a condition of qualification for benefits in a second benefit year; and conditions for payment of benefits based on service with nonprofit organizations and state hospitals and institutions of higher education in conformity with public law 91-373, employment security amendments of 1970.	1409
391		141	An act to amend Section 84-1601, R.C.M. 1947, to provide for an electrical energy producers' license tax of one and four hundred thirty-eight thousandths percent (1.438%), and providing an effective date.	1411
392		142	An act to amend Section 84-2004, R.C.M. 1947, to provide for a permanent metalliferous mines license tax and providing an effective date.	1412
393		265	An act relating to management and regulation of the floodways of watercourses as prescribed; to define terms; to provide for certain duties and powers of the Montana water resources board as prescribed; to provide for a floodway obstruction removal fund; to declare certain acts unlawful; and to provide for penalties.	1413
394		410	An act to amend Section 23-3022, R.C.M. 1947, as amended, to delete the provision that a person may not gain or lose residence while employed in the service of the United States or of the state of Montana.	1422
395		551	An act amending Section 75-8702, R.C.M. 1947, by deleting part-time student from the definition of resident student. Amending Section 75-8703, R.C.M. 1947, to allow the spouse or dependent children of an adult employed on a full-time basis within the state of Montana to apply for	

HeinOnline -- 1971 vol. I xxxvii 1971

Chap.	Senate Bill	House Bill	Title	Page
			in-state tuition classification and amending Section 75-8704, R.C.M. 1947, to create a presumption: all sections being part of Senate Bill 2 of the forty-second session laws of Montana.	1423
396		556	An act to require all units of the Montana university system and all private colleges and private universities granting any degree in education to establish a course in health education to include drug and alcohol education and abuse; to require that graduates in education shall successfully complete such course in health education and drug and alcohol education and abuse; and to require all junior high schools and high schools in Montana to teach courses in drug and alcohol abuse to their students.	1427
397		559	An act providing for an assessment on fertilizer to produce funds for the Montana cooperative extension service and the Montana agricultural experiment station of Montana state university, Bozeman, for a statewide fertilizer and related soil management program of educattion and research correlated with soil testing; providing an effective date; and providing an expiration date.	1428
398		568	Control of parking and traffic on university grounds.	1430
399	12		An act amending Section 16-4307, R.C.M., 1947, providing for the appointment of a trustee for a hospital district when no nominations are submitted.	1431
400	14		An act to amend Section 84-1855, R.C.M., 1947, relating to procedure for refunds of gasoline license tax.	1432
401	56		An act to establish budgeting and financing procedures for community college districts and repealing Section 75-8121, R.C.M., 1947.	1435
402	117		An act amending Section 40-4108, R.C.M., 1947, and requiring disability insurance and workmen's compensation policies to provide the insured shall have full freedom of choice in the selection of any duly licensed clinical psychologist for treatment of illness or injury.	1436
403	126		An act controlling the distribution, sale, application, disposal and transportation of pesticides and devices; creating a temporary advisory committee; providing registrattion of pesticides and licensing of applicators; providing procedure for appeals; providing penalties and an effective date.	1437
404	200		An act relating to the school foundation program; providing for changes in financial schedules for the maximum general fund budgets for elementary and high schools; amending Section 75-6905; and providing an effective date.	1463
405	225		Power of regents to appoint university security departments; extent of authority of university security departments.	1469
406	235		An act amending Sections 75-8103, 75-8105, 75-8106, 75-8107, 75-8108, 75-8109, 75-8110 and 75-8119, R.C.M., 1947, providing that community college districts shall be under the supervision of the board of regents and that said board shall appoint a coordinator of community college districts.	1470
407	236		An act to add a new section in Title 75, Chapter 81, numbered 75-8126, R.C.M., 1947, and to amend Section 75-8112, R.C.M., 1947, prohibiting a community college district from granting baccalaureate degrees and requiring final approval by the legislature upon recommendation of the board of regents for the establishment of a new community college district.	1474
408	294		An act to shorten the period for filing mechanics' liens by providing for filing of a notice of completion and amending Sections 45-501 and 45-502, R.C.M., 1947.	1476
409		149	An act to provide an emergency and disaster fund for the governor to be implemented by the department of administration, authorizing the governor to expend not to exceed seven hundred fifty thousand dollars ($750,000) per biennium from the general fund, and an immediate effective date.	1478
410		185	An act to amend Section 92-206, R.C.M. 1947, to permit private contractors engaged in the performance of contract work for public corporations to provide workmen's compen-	

HeinOnline -- 1971 vol. I xxxviii 1971

Chap.	Senate Bill	House Bill	Title	Page
			sation insurance under plans No. 2 or 3, as provided in the workmen's compensation act.	1479
411		201	An act to amend Section 87-148, R.C.M. 1947, providing automatic coverage for any employer covered under the federal unemployment tax act; clarifying definition of employment of an individual or officer of a corporation; and the following in conformity with public law 91-373, employment security amendments of 1970; amending definition of employment to include coverage of certain non-profit organizations, hospitals or institutions of higher education operated by this state or its instrumentalities and services performed by a citizen outside the United States; redefining agricultural employment; defining institutions of higher education and hospitals; and deleting language no longer applicable.	1480
412		230	An act amending Section 3-228, R.C.M. 1947, providing for the bonding, licensing and fees of warehouseman, track buyer, grain dealer and others; and providing penalties for operating without a license.	1490
413		249	An act to be known as the manufactured dairy products act, repealing all of the present dairy products act and regulations contained in Montana statutes, Title 3, Sections 3-2401 through 3-2403; 3-2405 through 3-2431; 3-2434; 3-2436 through 3-2444; 3-2447 through 3-2472; 3-2476 through 3-2487; providing for the authority and duties of the commissioner of agriculture with respect to this act; defining those products and procedures regulated by this act; providing for the licensing and license fees for dairies producing milk for manufacturing purposes, and for manufactured dairy products plants as defined; providing for the same licensing and regulatory authority for those non-dairy products made in the semblance or imitation of those products defined in this act; providing for the promulgation of rules and regulations necessary to carry out the intent and purpose of this act; providing for inspection of dairies providing milk for manufacturing purposes and of manufactured dairy products plants, and the enforcement of rules and regulations pertaining to the sanitary production, manufacture, collection, transportation, handling, storage, and display of products governed by this act; providing for the establishment of standards of composition, quality, purity, and wholesomeness for dairy and non-dairy products defined in this act; authorizing and establishing procedures for the denial, suspension, or revocation, for cause, of licenses issued under authority of this act; providing for those test procedures, the results of which, may be used as official and admissible evidence; providing authority for the commissioner of agriculture to make cooperative agreements with other state, federal, county, or municipal departments or agencies as may be needed to carry out the intent and purpose of this act; and providing for the penalties for violation of this act or of the rules and regulations adopted under the authority of this act; providing an effective date.	1492
414		259	An act to provide for licensing of livestock dealers and establishing the procedure, rules and regulations therefore [sic].	1519
415		315	An act to amend Section 87-106, R.C.M. 1947, which section is a part of the unemployment compensation law, by deleting chargeback matters provided for in another section: providing for the payment of benefits to an individual taking approved training in conformity with public law 91-373, employment security amendments of 1970; eliminating the denial of benefits by reason of cancellation of wage credits by repealing Sections 87-106 (g) and (j) in conformity with public law 91-373, employment security amendments of 1970.	1524
416		333	An act to amend Sections 74-602 and 74-608, R.C.M. 1947, relating to retail installment sales.	1528
417		338	An act to establish minimum wages and hours for employees in the state of Montana; delegating to the commissioner of labor the duty of administering the act; and providing enforcement.	1533
418		382	An act to provide for the issue and sale by the state board of examiners of bonds for the purpose of constructing an	

HeinOnline -- 1971 vol. I xxxix 1971

Chap.	Senate Bill	House Bill	Title	Page
			addition to the employment security commission building located on the capitol building grounds; designating the funds from which said bonds shall be paid; providing for an employment security commission building interest and sinking fund; enumerating the powers and duties of the state board of examiners in carrying out the provisions of this act; authorizing the state land board to purchase said bonds with moneys from the long-term investment funds; providing a savings clause; and providing an effective date.	1538
419		383	An act to provide for the issue and sale by the state board of examiners of long-term bonds for the purpose of erecting employment security commission office buildings within the state of Montana, designating the funds from which said bonds shall be paid; providing for employment security commission interest and sinking funds; enumerating the powers and duties of the state board of examiners in carrying out the provisions of this act; authorizing the state land board to purchase said bonds with moneys from the long-term investment funds; providing a savings clause; and providing an effective date.	1541
420		408	An act relating to fees allowed to sheriffs for board of prisoners; amending Sections 16-2808, 16-2818, and 16-3802, R.C.M. 1947; repealing Sections 25-227 and 25-228, R.C.M. 1947.	1544
421		419	An act amending Sections 4-317, 4-324 and 4-347, R.C.M. 1947, and Section 4, Chapter 296, Laws of 1969, to make the current beer barrelage tax permanent; providing for severability; repealing all acts and parts of acts in conflict herewith.	1545
422		446	An act to amend Sections 75-6207, 75-6208, Revised Codes of Montana, 1947, relating to an increase in the employer contribution to the pension accumulation fund and further relating to an increase in the benefits of teachers retired before July 1, 1969.	1548
423		453	An act to change age requirements to eighteen; amending Sections 16-2401, 16-2402, 16-3202, 31-135, 40-3308, 40-3327, 40-4705, 40-4807, 40-5321, 66-1929, 67-1801, 67-1804, 67-1807, 69-2701, 71-1525, 77-121, 91-1702, 91-3302 and 93-9912, R.C.M. 1947.	1559
424		455	An act relating to the teaching profession, recognizing the right of teachers to join organizations of their choosing, promoting cooperation and discussion between school boards and teachers, establishing professional negotiation procedures, recognizing bargaining representatives.	1580
425		477	An act to amend Section 93-1304, R.C.M. 1947, exempting from jury duty a person holding a state public office, and deleting the reference to an almshouse.	1587
426		482	An act to amend Sections 32-3922, 32-3925, 32-3926, 32-3927 and 32-3929, R.C.M. 1947, enacted as Chapter 212, Laws of 1969, providing for payment of direct losses of displaced persons resulting from moving, discontinuing a business or farm, payment of expenses in seeking replacement, providing for amounts and limits of payments, providing for matching funds to certain dwellings not eligible under certain provisions of this act and providing an effective date.	1588
427		497	An act providing for nonprofit organizations to establish district youth guidance homes for delinquent and other children; providing for commital of juvenile delinquents and other juveniles to district youth guidance homes; providing authority to department of institutions to make rules and regulations for the operation of such homes.	1592
428		499	An act amending Section 10-622, R.C.M. 1947, relating to appointment, removal, salaries and qualifications of probation officers.	1595
429		501	An act to convert overhead existing electrical and communication facilities to underground locations by special improvement districts and providing an effective date.	1596
430		531	An act replacing Chapter 14, Title 41, R.C.M. 1947, concerning the regulation of private employment agencies including provision for penalties for the violation of such regulations.	1612

HeinOnline -- 1971 vol. I xl 1971

Chap.	Senate Bill	House Bill	Title	Page
431		540	An act providing for conservation districts; generally revising Title 76; and amending Sections 76-101, 76-103 through 76-111, 76-114, 76-115, 76-117, 76-201, 76-208 through 76-210, 76-222 through 76-226, and 76-229, R.C.M. 1947.	1620
432		561	An act to amend Section 75-8601 relating to charges for tuition.	1652
433		589	An act to establish municipal and regional airport authorities; to provide for a tax levy for operation thereof; to provide for airport commissioners; to provide for the general power of an airport authority; to provide powers of eminent domain for issuance of bonds, and for the establishment of operational uses privileges; to provide for rules and regulations in connection with an airport authority; to provide for acceptance of federal aid for airports; to provide for joint operations of airport facilities and to provide for municipal cooperation in regard to airport operation. It is the intent of the legislative assembly that all sections of this bill be codified in Title 1, Chapter 9, R.C.M. 1947.	1652
434	54		An act establishing certificates of ownership and records of theft of snowmobiles, regulating operation of snowmobiles, providing exemptions, transfer of interest, prohibiting licensing and registration by political subdivisions, establishing enforcement, and providing penalties for any violation of this act; repealing Sections 53-1001 through 53-1011, R.C.M., 1947.	1670
435		361	An act providing for the display of tax-paid decals on every snowmobile operated in the state of Montana; for the yearly issuance of such decals; for a change in the assessment date of snowmobiles; providing penalties for violation of this act; and amending section 84-406, R.C.M. 1947, and providing an effective date.	1678
436		426	An act relating to the inspection of passenger tramways; providing for creation of a passenger tramway safety board, term of office, and compensation of board members, powers and duties of the board, passenger tramway registration, registration fees, and judicial review.	1681

APPROPRIATIONS

House Bill	Title	Page
1	An act appropriating money for the operation of the Forty-second Legislative Assembly.	1691
95	An act appropriating sixteen thousand six hundred fifty dollars ($16,650) for state of Montana dues to the council of state governments for the 1971-1973 biennium.	1691
476	An act appropriating four million dollars ($4,000,000) from the general fund to the state board of health for matching funds to local governments for construction of water pollution control facilities subject to Section 69-4808.1, R.C.M. 1947.	1691
598	An act to appropriate five thousand dollars ($5,000) from the general fund for the restoration of the governors' old mansion at Helena, Montana.	1692
600	An act appropriating one hundred thousand dollars ($100,000) for the operation of the environmental quality council for the biennium ending June 30, 1973.	1692
609	An act appropriating fifty-eight thousand seven hundred nine dollars ($58,709) from the agricultural experiment station earmarked revenue fund for the biennium ending June 30, 1973, for the acquisition of real property; appropriating as much as may be necessary from the agricultural experiment station earmarked revenue fund for interest and other costs to the purchaser for the acquisition of real property; authorizing the board of examiners to enter into a contract for deed to approximately 93.69 acres of land in Gallatin County.	1693
615	An act appropriating moneys for certain state agencies of government for the biennium ending June 30, 1971, and for the operation of the Forty-second Legislative Assembly; and providing an effective date.	1693
617	An act appropriating moneys to the department of lands and investments to implement the provisions of House Bill 243 and Senate Bills 250 and 70; providing an effective date.	1694

This listing is for cross reference, the following appropriation is also listed under chapter number since it contains some permanent law.

HeinOnline -- 1971 vol. I xli 1971

Chap.	Senate Bill	House Bill	Title	Page
296		168	An act to provide for a constitutional convention; making appropriations in connection therewith; providing for an immediate effective date; and further providing for an automatic repealer.	1224

HOUSE JOINT RESOLUTIONS

No.	Title	Page
House Joint Resolution No. 1	A Joint Resolution of the Senate and House of Representatives of the state of Montana requesting that the Legislative Council conduct a study of public welfare programs administered by the Department of Public Welfare and report its findings, together with recommendations and any necessary implementing legislation to the Forty-third Legislative Assembly.	1695
House Joint Resolution No. 2	A Joint Resolution of the Senate and House of Representatives of the Forty-second Legislative Assembly of the state of Montana urging the teaching of consumer education in all public schools in Montana.	1696
House Joint Resolution No. 4	A Joint Resolution of the Senate and House of Representatives of the state of Montana to the Honorable Mike Mansfield and the Honorable Lee Metcalf, senators from the state of Montana, the Honorable Richard Shoup and the Honorable John Melcher, representatives from the state of Montana, and to the Congress of the United States asking that the present tax-exempt status of bonds issued by the state of Montana or any political subdivision thereof be maintained.	1697
House Joint Resolution No. 6	A Joint Resolution of the Senate and the House of Representatives of the state of Montana to the Montana Fish and Game Commission, to the Honorable Forrest H. Anderson, Governor of the state of Montana, to the Honorable Mike Mansfield and the Honorable Lee Metcalf, senators from the state of Montana, to the Honorable Richard Shoup and the Honorable John Melcher, Representatives from the state of Montana, to the United States Corps of Army Engineers and to the United States Forest Service urging the immediate construction and operation of a fish hatchery in Lincoln county, Montana.	1698
House Joint Resolution No. 7	A Joint Resolution of the Senate and House of Representatives to place a bust of former Governor Joseph M. Dixon in the Rotunda of the Capitol.	1699
House Joint Resolution No. 9	A Joint Resolution of the Senate and House of Representatives of the state of Montana to all colleges and universities in the state of Montana, to all Montana veterans' organizations, to the Honorable Mike Mansfield and the Honorable Lee Metcalf, senators from the state of Montana, and to the Honorable Richard Shoup and the Honorable John Melcher, representatives from the state of Montana, endorsing ROTC training and urging continued support and strengthening of the programs.	1700
House Joint Resolution No. 12	A Joint Resolution of the Senate and House of Representatives of the state of Montana requesting the State Superintendent of Public Instruction to computerize all relevant statistical data needed to compute the public school foundation program schedules so as to establish a more realistic program of school financing under Montana law.	1701
House Joint Resolution No. 13	A Joint Resolution of the Senate and the House of Representatives directing the State Historical Society to adequately portray the history of Montana's logging industry in the State Historical Museum.	1702
House Joint Resolution No. 14	A Joint Resolution of the Senate and House of Representatives of the state of Montana in support of captured American fighting men and those missing in action.	1702
House Joint Resolution No. 22	A Joint Resolution of the Senate and the House of Representatives calling attention to the need for preservation and protection of Montana's Indian rock paintings and pictographs and directing the Board of Land Commissioners, the State Highway Commission, and the Historical Society of Montana to undertake whatever means necessary to preserve and protect this irreplaceable part of Montana's history and art.	1704

HeinOnline -- 1971 vol. I xlii 1971

No.	Title	Page
House Joint Resolution No. 23	A Joint Resolution of the Senate and the House of Representatives asking that the Legislative Council conduct a study of the feasibility and desirability of establishing a self-insurance fund for public schools.	1705
House Joint Resolution No. 29	A Joint Resolution of the Senate and House of Representatives of the state of Montana requesting that the Legislative Council conduct a study of the feasibility of adopting a no-fault motor vehicle insurance plan and report its findings to the Forty-third Legislative Assembly.	1706
House Joint Resolution No. 30	A Joint Resolution of the Senate and House of Representatives of the state of Montana endorsing the sustained yield and multiple purpose act and urging the elimination of slash burning except to control disease or insects.	1707
House Joint Resolution No. 31	A Joint Resolution of the Senate and House of Representatives of the state of Montana requesting that the Legislative Council conduct a study of the make up, boundaries and number of judges of the judicial districts of the state of Montana and report its findings, together with recommendations and any necessary implementing legislation to the Forty-third Legislative Assembly.	1708
House Joint Resolution No. 32	A Joint Resolution of the Senate and the House of Representatives urging the Constitutional Convention to amend Section 1 and Section 2, Article XVII, of the Montana Constitution, providing the Board of Land Commissioners authority to classify lands into multiple-use classifications and to change these classification from time to time as the board may deem necessary.	1709
House Joint Resolution No. 33	A Joint Resolution of the Senate and House of Representatives of the state of Montana to soap and detergent manufacturers, the environmental protection agency, and the Montana Department of Health, urging increased research toward finding a substitute for phosphates in detergents.	1710
House Joint Resolution No. 34	A Joint Resolution of the Senate and House of Representatives of the state of Montana to the Congress of the United States, the Montana Congressional Delegation, and the United States Army Corps of Engineers urging greater cooperation and consideration by the Corps of Engineers for the fish and wildlife resources of Montana, and urging intensified efforts to improve the aquatic environment of Fort Peck Reservoir.	1711
House Joint Resolution No. 38	A Joint Resolution of the Senate and House of Representatives requesting the Legislative Council to study the feasibility of home rule for municipalities and to make recommendations to the Forty-third Legislative Assembly.	1712
House Joint Resolution No. 39	A Joint Resolution of the House of Representative and the Senate instructing the Legislative Council to investigate and explore tenure policies in the Montana University System for the purpose of making recommendations regarding college tenure to the Forty-third Legislative Assembly.	1713
House Joint Resolution No. 40	A Joint Resolution of the Senate and House of Representatives consenting to the construction, improvement and equipment of physical education, athletic and recreation facilities at Montana State University.	1714
House Joint Resolution No. 41	A Joint Resolution of the Senate and House of Representatives urging that all state and federal agencies and private organizations concerned with the management of Montana's rangelands cooperate in the implementation of the Montana rangeland resource program of the Montana State Soil Conservation Committee.	1714
House Joint Resolution No. 43	A Joint Resolution of the Senate and the House of Representatives directed to the state department of planning and economic development reemphasizing the need for rational solutions to the pollution problems of Montana.	1716
House Joint Resolution No. 44	A Joint Resolution of the Senate and House of Representatives of the state of Montana directed to the Honorable Richard M. Nixon, President of the United States of America, the Honorable Melvin Laird, Secretary of Defense, the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the state of Montana, the Honorable Richard Shoup and the Honorable John Melcher, Representatives from the state of Montana, and the Director of Selective Service urging fair and equitable administration of the Selective Service Act and a review of national policy, and priorities under the intent of the Selective Service Act.	1717

HeinOnline -- 1971 vol. I xliii 1971

No.	Title	Page
House Joint Resolution No. 45	A Joint Resolution of the Senate and House of Representatives of the state of Montana requesting the Montana Agricultural Stabilization and Conservation Service State Committee to effect immediate major adjustments in Montana's conserving base acres to give Montana's grain producers an equitable basis with other competing wheat-growing states under the federal farm program.	1718
House Joint Resolution No. 46	A Joint Resolution of the Senate and House of Representatives requesting the Constitutional Convention to study the desirability of amending Section Five (5) Article Sixteen (16) of the Montana Constitution to provide for the office of clerk of district court to be consolidated with other elective county offices.	1720
House Joint Resolution No. 50	A Joint Resolution of the Senate and House of Representatives of the state of Montana directing the Legislative Council to study the feasibility of establishing a set of standard, statewide plans for construction of elementary and secondary school buildings in Montana.	1721

SENATE JOINT RESOLUTIONS

No.	Title	Page
House Joint Resolution No. 1	A Joint Resolution of the Senate and House of Representatives of the state of Montana to the Secretary of Health, Education and Welfare and to the Commissioner of Social Security asking that the Secretary of Health, Education and Welfare forestall enforcement of regulations promulgated by the Department of Health, Education and Welfare requiring automatic sprinkling (sic) systems in certain hospitals and extended care facilities for a period of two years from January 31, 1971, and further urge the Secretary of Health, Education and Welfare to review, reconsider and revise said regulations to permit the use of alternative fire protection devices.	1721
Senate Joint Resolution No. 2	A Joint Resolution of the Senate and House of Representatives of the state of Montana urging congress and all involved officials to implement the recommendations of the governor's task force on Indian problems.	1724
Senate Joint Resolution No. 3	A Joint Resolution of the Senate and House of Representatives of the state of Montana urging congress and all involved officials to implement the recommendations of the governor's task force on Indian problems.	1724
Senate Joint Resolution No. 4	A Joint Resolution of the Senate and House of Representatives of the state of Montana, to the President of the United States of America, the Montana congressional delegation, the Army Corps of Engineers and the Montana State Planning Board urging early construction of a reregulating dam on Kootenai river mile 208.9.	1726
Senate Joint Resolution No. 5	A Joint Resolution of the Senate and House of Representatives of the state of Montana to the Montana congressional delegation supporting the establishment of a scenic recreation river along the Missouri from Robinson Bridge to Fort Benton in Montana and urging the Montana congressional delegation to introduce and support appropriate legislation.	1727
Senate Joint Resolution No. 6	A Joint Resolution of the Senate and House of Representatives of the state of Montana to the Honorable Richard M. Nixon, President of the United States; to the Honorable Elliot L. Richardson, Secretary of Health, Education and Welfare; to the Congress of the United States; to the Honorable Mike Mansfield and the Honorable Lee Metcalf, senators from the state of Montana; to the Honorable Richard Shoup and the Honorable John Melcher, representatives from the state of Montana calling attention to the plight of Montana's small, rural hospitals, extended care facilities, skilled nursing homes and intermediate care facilities which are facing loss of certification under medicare and medicaid because of the increasingly stringent medicare requirements.	1728
Senate Joint Resolution No. 8	A Resolution of the Senate and House of Representatives of the state of Montana recommending to the Montana Constitutional Convention that it consider considering the legalization of bingo when it is operated as entertainment for nonprofit or charitable purposes.	1729
Senate Joint Resolution No. 9	A Resolution of the Senate and House of Representatives of the state of Montana requesting the Legislative Council to study the Montana educational system, community college system and post secondary vocational technical centers with a view toward specialization of the various units thereof by avoiding unnecessary duplication in the programs and degrees offered by each unit.	1730

HeinOnline -- 1971 vol. I xliv 1971

Senate Joint Resolution No. 12	A Joint Resolution of the Senate and House of Representatives of the state of Montana requesting the Honorable United States senators and representatives from the state of Montana to examine the feasibility of updating the rules and regulations governing mining operations on public lands.	1731
Senate Joint Resolution No. 13	A Joint Resolution of the Senate and House of Representatives of the state of Montana respectfully urging the Honorable Forrest H. Anderson, Governor, and the State Department of Planning and Economic Development to retain the South-Central Montana Development Federation intact.	1733
Senate Joint Resolution No. 15	A Joint Resolution of the Senate and House of Representatives consenting to the use of any of the facilities, furniture, fixtures, supplies and other property of the Montana legislative assembly by the Constitutional Convention.	1734
Senate Joint Resolution No. 16	A Joint Resolution of the Senate and House of Representatives of the Legislative Assembly of the state of Montana to the Congress of the United States and to the National Park Service and other agencies of the United States government and to the various agencies of the state of Montana concerned with the preservation of historical landmarks requesting that action be taken immediately to preserve Beaverhead Rock in Madison County, Montana, which is one of the great landmarks of the Lewis and Clark expedition as a national park or national monument.	1735
Senate Joint Resolution No. 19	A Joint Resolution of the Senate and House of Representatives of the state of Montana respectfully requesting the Interstate Commerce Commission to approve equitable freight rates throughout the various states of the United States of America.	1736
Senate Joint Resolution No. 22	A Joint Resolution of the Senate and House of Representatives reserving the third and fourth floors of the capitol for legislative use only after construction of the new supreme court and law library building.	1737
Senate Joint Resolution No. 23	A Joint Resolution of the Senate and House of Representatives of Montana to the Honorable Mike Mansfield and the Honorable Lee Metcalf, senators from the state of Montana; to the Honorable Richard Shoup and the Honorable John Melcher, representatives from the state of Montana, urging that parts of the Lincoln Back Country and Scapegoat Mountain area be enjoined with the National Wilderness Preservation System.	1738
Senate Joint Resolution No. 24	A Joint Resolution of the Senate and House of Representatives requesting the Legislative Council to study and evaluate the various state laboratories, their functions, responsibilities and degree of efficiency and to recommend such plans and programs necessary to provide Montana and her citizens with the best possible laboratory facilities, personnel, equipment, administration, and services.	1739
Senate Joint Resolution No. 26	A Joint Resolution of the Senate and House of Represeentatives to the State Fish and Game Commission and the Historical Society of Montana directing the placing of historical markers and information signs along the Missouri River from Fort Benton to the Fred Robinson Bridge to point out and inform floaters and boaters about points of interest.	1741
Senate Joint Resolution No. 27	A Joint Resolution of the Senate and House of Representatives of the Forty-second Legislative Assembly of the state of Montana approving in principle the proposed federal family assistance act.	1741
Senate Joint Resolution No. 29	A Joint Resolution of the Senate and House of Representatives to the Honorable Mike Mansfield and the Honorable Lee Metcalf, senators from Montana, and the Honorable John Melcher and the Honorable Richard Shoup, representatives from Montana, urging the Montana congressional delegation to use their influence and connections with the proper federal agencies to see that proper and adequate access roads are built and upgraded by the federal government in the triangle area of Montana where the Safeguard ABM missile sites are located; providing for mailing copies to certain officials.	1742
Senate Joint Resolution No. 30	A Joint Resolution of the Senate and House of Representatives of the state of Montana requesting the State Board of Education to conduct a study of proprietary schools offering vocational or technical training to citizens of Montana.	1746

HeinOnline -- 1971 vol. I xlv 1971

CONTENTS

EXTRAORDINARY SESSION I

APPROPRIATIONS AND RESOLUTIONS

Note: All major appropriation bills to fund state agencies failed to pass in both the regular and first extraordinary session of the Forty-second Legislative Assembly. Consult the Session Laws of the second extraordinary session for appropriations for the operation of state government.

Chap. No.	Senate Bill	House Bill	Title	Page
Ex 1	6		An act to amend Chapter 296, Laws of Montana, 1971, relating to calling a constitutional convention: By changing the date of the special primary election; by providing for the secretary of state to certify to the registrars the name and description of each person nominated; by providing that the convention may remain in session as long as necessary; by amending provisions for schedule of legislation; by amending provisions to grant leave for public employees elected as delegates; amending provisions for appointing members and filling vacancies on constitution convention commission; restating the function and duties of said commission; deleting provisions permitting the commission to accept and expend private funds; repealing subsections (3), (11) of Section 20, Chapter 296, Session Laws of 1971; amending provisions for appropriations; providing an automatic repealer and providing an immediate effective date.	1749
Ex 2	5		An act prescribing uniform procedures for state administrative agencies, including: Requirement for adoption of procedural rules; procedures for adoption, amendment or repeal of rules, including emergency rules; filing and publication of rules; judicial notice of rules; notice and hearing requirements for contested cases; procedures for contested case hearings; procedures for decision making in contested cases; judicial review of contested case decisions; declaratory rulings by agencies; declaratory judgments by courts regarding the validity and application of agency rules; subpoenas, subpoena enforcement and compelling testimony for agency proceedings; and right to representation in agency proceedings; to provide an effective date.	1759
Ex 3	1		An act to apportion the legislative assembly according to the 1970 federal census; and repealing Sections 43-106.1 and 43-106.2, R.C.M., 1947; and providing an effective date.	1777
Ex 4	7		An act to amend the laws relating to the location and assessment work requirements upon mining claims by amending Section 50-701(3), R.C.M. 1947, to provide for compliance with United States mining laws and to eliminate the location requirement of sinking a discovery shaft; amending Section 50-702, R.C.M., 1947, to provide that the county clerk shall provide a copy of each certificate of location to the department of state lands and investments, to change the information required on the certificate of location, and to provide that failure to record the certificate of location shall create a prima facie presumption of intent to abandon; amending Section 50-704, R.C.M., 1947, to change the information required on the affidavit of performance of annual work, to provide for group assessment work upon contiguous claims, to provide that recording of the affidavit is mandatory, to provide that the affidavit be verified, and to provide that failure to record the assessment affidavit is prima facie evidence of failure to perform such labor and that the owner has abandoned same.	1780
Ex 5		39	An act to amend Chapter 333, Session Laws of 1971, in order to clarify the effective date.	1785

EXTRAORDINARY SESSION APPROPRIATIONS 42ND LEGISLATIVE ASSEMBLY

House Bill	Title	Page
1	An act appropriating money for the operation of the Extraordinary Session of the Forty-second Legislative Assembly convened on March 8, 1971; specifying	

House Bill	Title	Page
	an immediate effective date.	1791
3	An act to appropriate money for capital projects for the biennium ending June 30, 1973; providing for other matters relating to the appropriations; repealing Chapter 238, Laws of 1969, and Sections 1, 4, 5, 6, 7 and 8, Chapter 375, Laws of 1969; and prescribing the method of accounting for expenditure of non-appropriated funds.	1791
12	An act appropriating twenty-seven thousand dollars ($27,000) to the department of administration from the capitol building program account, bond proceeds and insurance clearance fund for the illumination of the capitol building.	1802
15	An act to appropriate moneys for payment of employers contribution to the public employees retirement system for the services of members of the legislative assembly; providing an effective date.	1803
17	An act appropriating money for the operation of the Extraordinary Session of the Forty-second Legislative Assembly; specifying an immediate effective date.	1803
29	An act to appropriate moneys from the general fund for the purchase or lease and installation of a new sound system and electric voting system for the House of Representatives.	1803

THIS LISTING IS FOR CROSS REFERENCE. THE FOLLOWING APPROPRIATION IS ALSO LISTED UNDER CHAPTER NUMBERS SINCE IT CONTAINS SOME PERMANENT LAW.

Ex 1	6	An act to amend Chapter 296, Laws of Montana, 1971, relating to calling a constitutional convention: By changing the date of the special primary election; by providing for the secretary of state to certify to the registrars the name and description of each person nominated; by providing that the convention may remain in session as long as necessary; by amending provisions for schedule of legislation; by amending provisions to grant leave for public employees elected as delegates; amending provisions for appointing members and filling vacancies on constitution convention commission; restating the function and duties of said commission; deleting provisions permitting the commission to accept and expend private funds; repealing subsections (3), (11) of Section 20, Chapter 296, Session Laws of 1971; amending provisions for appropriations; providing an automatic repealer and providing an immediate effective date.	1749

EXTRAORDINARY SESSION HOUSE JOINT RESOLUTIONS
42ND LEGISLATIVE ASSEMBLY

House Joint Resolution No. 1	A Joint Resolution of the Senate and House of Representatives consenting to the renovation of Donaldson Hall at Northern Montana College, Havre, Montana.	1804
House Joint Resolution No. 2	A Joint Resolution of the Senate and House of Representatives consenting to the renovation of the armory gym at Northern Montana College, Havre, Montana.	1804
House Joint Resolution No. 3	A Joint Resolution of the Senate and House of Representatives consenting to the construction of a Petroleum and Engineering Science building at the Montana College of Mineral Science and Technology, Butte, Montana.	1805
House Joint Resolution No. 5	A Joint Resolution of the Senate and House of Representatives consenting to supplement the construction of the renovation of the Health Service building at the University of Montana, Missoula, Montana.	1805
House Joint Resolution No. 6	A Joint Resolution of the Senate and House of Representatives consenting to the construction of a sports complex at Fort Missoula, University of Montana, Missoula, Montana.	1806
House Joint Resolution No. 7	A Joint Resolution of the Senate and House of Representatives consenting to the construction of a swimming pool at the University of Montana, Missoula, Montana.	1807

HeinOnline -- 1971 vol. I xlvii 1971

House Joint Resolution No. 8	A Joint Resolution of the Senate and House of Representatives consenting to supplement the construction of the addition and renovation of the fieldhouse at the University of Montana, Missoula, Montana.	1807
House Joint Resolution No. 9	A Joint Resolution of the Senate and House of Representatives consenting to the renovation of the Women's Center at the University of Montana, Missoula, Montana.	1808
House Joint Resolution No. 11	A Joint Resolution of the Senate and House of Representatives consenting to the construction of an Environmental Research Center at Montana College of Mineral Science and Technology, Butte, Montana.	1809
House Joint Resolution No. 12	A Joint Resolution of the House of Representatives and Senate of the state of Montana consenting to the planning and construction of a physical education complex at Montana College of Mineral Science and Technology, Butte, Montana.	1810

EXTRAORDINARY SESSION 42ND LEGISLATIVE ASSEMBLY

Senate Joint Resolution No. 1	A Joint Resolution of the Senate and House of Representatives ratifying the proposed amendment to the constitution of the United States relating to the right to vote at eighteen years of age.	1810

HeinOnline -- 1971 vol. I xlviii 1971

CONTENTS
EXTRAORDINARY SESSION II

APPROPRIATIONS AND RESOLUTIONS

Note: All major appropriation bills to fund state agencies failed to pass in both the regular and first extraordinary session of the Forty-second Legislative Assembly. Consult the Session Laws of the second extraordinary session for appropriations for the operation of state government.

Chap.	Senate Bill No.	House Bill No.	Date of Approval	Date Effective	Tittle	Page
Ex2-1		13	6-15-71	6-15-71	An act allowing the investment of moneys belonging to the Public School Permanent Fund and its other permanent funds of the education, charitable and penal institutions of the state, and all permanent funds subject to the administration of the board under Article XXI of the State Constitution, to be invested in bonds which are full guaranteed by the United States as to principal and interest by amending Section 81-1001, R.C.M. 1947; providing an effective date.	1815
Ex2-2	1		6-24-71	6-24-71	An act to provide for tthe control of outdoor advertising adjacent to interstate and primary highway systems in compliance with the Highway Beautification Act of 1965; repealing Sections 32-4701 through 32-4714, R.C.M. 1947, and providing an effective date.	1816
Ex2-3	2		6-25-71	7- 1-71	An act to provide for relocation assistance to persons displaced as a result of acquisition of land for federally assisted programs and to provide for acquisition practices.	1825
Ex2-4	3		6-29-71	7- 1-71	An act to fix salaries for the District Court Judges; amending Section 93-303, R.C.M. 1947.	1836
Ex2-5	4		6-29-71	6-29-71	An act amending Section 16-1904, R.C.M. 1947, to allow county commissioners to transfer excess funds; repealing Section 16-2048, R.C.M. 1947; and providing an effective date.	1837
Ex2-6	5		6-29-71	6-29-71	An act to authorize the Secretary of State to determine the number of signatures needed for nominating petitions of Independent Candidates; and providing an effective date.	1841
Ex2-7		38	6-29-71	6-29-71	An act to amend Section 84-1501, R.C.M. 1947, as amended by Chapter 333, Session Laws of 1971, to provide that the corporation license tax be increased to six and three-quarters percent (6 ¾%); and providing an effective date.	1841
Ex2-8		40	6-29-71	6-29-71	An act to apportion the Legislative Assembly according to the 1970 federal census; and repealing Sections 43-106.1 and 43-106.2, R.C.M. 1947 .....4.....	184..
Ex2-9		12	7- 1-71	7- 1-71 Income tax surtax effective for all 1971.	An act providing for a referendum to be submitted to tthe electors in November 1971 for a law which provides for the levying o fa two percent (2%) sales and use tax to support state government; providing for the administration thereof and	

HeinOnline -- 1971 vol. I xlix 1971

Chap.	Senate Bill No.	House Bill No.	Date of Approval	Date Effective	Tittle	Page
					by a majority of voters, sales and Use Tax effective January 1, 1972.	for penalty in case of violation thereof; providing for an income tax refund or credit for sales and use tax upon food, drugs and related items; providing an increase in income tax surtax to forty percent (40%) by amending Section 84-1971 if the referendum passes; providing 4902.1, R.C.M. 1947, for calendar year for the continuance of such surtax rate to December 31, 1972 if the referendum fails; providing for repeal of acts or parts of acts in conflict herewith and providing effective dates. 1850

EXTRAORDINARY SESSION II
APPROPRIATIONS

House Bill No.	Date of Approval	Date Effective	Tittle	Page
1	6-10-71	6-10-71	An act appropriation money for the operation of Extraordinary Session II of the Forty-Second Legislative Assembly; specifying an immediate effective date.	1881
3	6-29-71	7- 1-71	An act to appropriate monies to certain state institutions and agencies for the biennium ending June 30, 1973.	1881
6	6-29-71	7- 1-71	An act to appropriate moneys to various state agencies for the biennium ending June 30, 1973; and providing for other matters relating to tthe appropriations.	1895
11	6-29-71	7- 1-71	An act appropriating money from the general fund to the Community College Districts of Montana for their operation and maintenance during the biennium ending June 30, 1973, in accordance with section 75-8121, R.C.M. 1947	1907
23	6-29-71	7- 1-71	An act to appropriate moneys to various state agencies for the biennium ending June 30, 1973; and providing for other matters relating to the appropriations.	1907
28	6-25-71	6-25-71	An act appropriating monies for certain state agencies of government for the biennium ending June 30, 1971, and providing an effective date.	1921
34	6-29-71	7- 1-71	An act appropriating one hundred fifty thousand dollars ($150,000) from the long-range building program fund to the Department of Administration for the acquisition of land for the capitol complex; said purchase to be subject to approval by the capitol building and planning committee.	1922
37	6-29-71	7- 1-71	An act appropriating twelve thousand dollars ($12,000) to the Legislative Council to study the Foundation Program and make recommendations for improvement of the Foundation Program structure to the Forty-Third Legislative Assembly.	1922
41	6-29-71	7- 1-71	An act to appropriate monies to the units of the Montana University System, the Agricultural Experiment Station, the Cooperative Extension Service, the Western Interstate Commission for Higher Education, the Office of the Executive Secretary of the Montana University System and the School for the Deaf and Blind, Sttate Superintendent of Public Instruction, including the funding of the Foundation Program, the Board of Education, and Vocational Education, the State Advisory Council for Vocational Education, for Personal Services, operation, and capital expenditures for the biennium ending June 30, 1973.	1922
42	6-29-71	7- 1-71	An act to appropriate moneys to various state agencies for the biennium ending June 30, 1973; and providing for other matters relating to the appropriations.	1933

HeinOnline -- 1971 vol. I l 1971

CONSTITUTIONAL AMENDMENTS

(Adopted by the people at the November 2, 1970 General Election)

Chapter		Tittle	Page
14	1969 Session Laws	An act to submit to the electors of Montana an Amendment to Section 2, Article IX of the Montana Constitution changing the voting age to nineteen years.	1949
66	1969 Session Laws	An act to submit to the electors of Montana an amendment to Section 9, Article XIX of the Constitution of Montana which would permit the Legislative Assembly to submit at the 1972, 1974 and 1976 General Elections, in addition to the three amendments otherwise authorized, amendments providing for the reorganization of the Executive Department of Government.	1951
Ex. 1	1969 Session Laws	An act to submit to the qualified electors of Montana an Amendment to the Montana Constitution adding a new section to provide that all executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities, except the office of Governor, Lieutenant Governor, Secretary of the State, Attorney General, State Treasurer, State Auditor, and Superintendent of Public Instruction, shall be allocated by law among not more than twenty departments no later than July 1, 1973; to provide that subsequently all new prowers or functions shall be assigned to provide an orderly adminismissions in addition to the twenty principal departtrative organization; providing for temporary comments.	1952

REFERENDUM MEASURE

(Adopted by the people at the November 2, 1970 General Election)

Chapter		Tittle	Page
		REFERENDUM MEASURE NO. 67	
65	1969 Session Laws	An act to submit to tthe electors of the State of Montana the question whether the Legislative Assembly shall call a Constitutional Convention.	1950

HeinOnline -- 1971 vol. I [i] 1971

SESSION LAWS

CHAPTER 1

An Act Relating to the Organization and Procedures of the Forty-second Legislative Assembly; Prescribing the Duties and Compensation of Legislative Employees; and Specifying an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Salaries shall be fixed by House or Senate Committee for employees of 42nd Legislative Assembly.

Section 1. For positions where a salary range is shown in this act, the salary shall be fixed by the house or senate committee on legislative administration. Persons employed who do not have previous experience shall be paid the minimum salary set by this act. Persons who have been previously employed by the legislative assembly shall be paid the minimum amount plus one dollar ($1) additional per day for each previous session worked. Experience in working for the fortieth and forty-first legislative assemblies shall be considered in computing previous experience, but experience in working prior to the fortieth legislative assembly shall not be considered.

$20.00 to $29.00 per day.

Section 2. (1) The secretary of the senate and chief clerk of the house of representatives shall receive twenty-seven dollars ($27) to twenty-nine dollars ($29) per day each. Their duties are to:

Duties.

(a) have custody of all records, bills, documents and other papers;

(b) supervise the keeping of the journal, engrossing and enrolling, and the handling of bills and resolutions;

(c) deliver to the secretary of state at the close of each session, the journal, billbooks, resolution books and all copies of introduced and engrossed bills and resolutions;

(d) collect from the chairman or secretaries of all standing and special committees the minutes of such committees and deliver them to the Montana historical society.

HeinOnline -- 1971 vol. I 1 1971

$27.00 to $29.00 per day.

(2) The sergeants-at-arms of each house shall receive twenty-seven dollars ($27) to twenty-nine dollars ($29) per day each. Their duties are to:

Duties.

(a) maintain order under the direction of the presiding officer;

(b) serve all processes;

(c) receive, distribute, and have custody of supplies;

(d) keep account of per diem, expenses, and mileage of members and employees, and prepare and submit all claims for payment;

(e) take an inventory at the close of each session of all furniture, fixtures, supplies, and other property and turn such property over to the state controller for custody until the next session. One copy of the inventory shall be kept on file in the office of the sergeant-at-arms.

$21.50 to $23.50 per day.

(3) The chief of engrossing and enrolling of each house shall receive twenty-one dollars fifty cents ($21.50) to twenty-three dollars fifty cents ($23.50) per day each. Their duties are:

Duties.

(a) to engross and enroll all bills delivered to them within forty-eight (48) hours after they have been received unless further time is granted;

(b) to correct clerical errors, with the consent of the secretary of the senate or chief clerk of the house, in any bill originating in the house by which they are employed. Clerical errors such as the following may be corrected:

Correction of clerical errors.

(i) errors in spelling,

(ii) errors in numbering sections,

(iii) adding or deleting underlining or lines through matter to be stricken,

(iv) material copied incorrectly from the Revised Codes of Montana, 1947.

Author informed.

The secretary of the senate and chief clerk of the house shall inform the principal author and the presiding officer in writing of all such corrections. No bill shall be corrected after engrossment.

HeinOnline -- 1971 vol. I 2 1971

(4) The assistant chief of engrossing and enrolling of each house shall receive nineteen dollars fifty cents ($19.50) to twenty-one dollars fifty cents ($21.50) per day each. They shall perform duties assigned by the persons to whom they are responsible.

$19.50 to $21.50 per day.

Duties.

(5) The chief typist of engrossing and enrolling of each house shall receive nineteen dollars fifty cents ($19.50) to twenty-one dollars fifty cents ($21.50) per day each. They shall perform duties assigned to them by the chief of engrossing and enrolling of the house where they are employed.

$19.50 to $21.50 per day.

Duties.

(6) The chief proofreader of engrossing and enrolling of each house shall receive nineteen dollars fifty cents ($19.50) to twenty-one dollars fifty cents ($21.50) per day each. They shall perform duties assigned by the chief of engrossing and enrolling in the house where employed.

$19.50 to $21.50 per day.

Duties.

(7) Code proofreaders shall receive fifteen dollars ($15) per day each. They shall perform duties assigned by the chief proofreader of engrossing and enrolling in the house where employed.

$15.00 per day.

Duties.

(8) The bills coordinators of each house shall receive twenty dollars fifty cents ($20.50) to twenty-two dollars fifty cents ($22.50) per day each. They shall perform duties assigned by the bills committee by which they are employed.

$20.50 to $22.50 per day.

Duties.

(9) Secretaries to the judiciary, finance and claims, and appropriations committee shall receive twenty dollars fifty cents ($20.50) to twenty-two dollars fifty cents ($22.50) per day each. Secretaries to other standing and special committees shall receive eighteen dollars ($18) to twenty dollars ($20) per day each. They shall perform duties assigned to them by the chairman of the committee by which they are employed.

$20.50 to $22.50 per day.

$18.00 to $20.00 per day.

Duties.

(10) Secretaries to the secretary of the senate and chief clerk of the house shall receive twenty dollars fifty cents ($20.50) to twenty-two dollars fifty cents ($22.50) per day each. They shall perform duties assigned by the person by whom they are employed.

$20.50 to $22.50 per day.

Duties.

(11) Secretaries to the president of the senate, speaker of the house, and to the majority and minority floor

$20.50 to $22.50 per day.

HeinOnline -- 1971 vol. I 3 1971

leaders and the secretary-payroll clerk to the sergeant-at-arms in each house shall receive twenty dollars fifty cents ($20.50) to twenty-two dollars fifty cents ($22.50) per day each. They shall perform duties assigned by the person by whom they are employed.

Duties.

$20.50 to $22.50 per day.

(12) The assistant secretary of the senate, assistant chief clerk of the house, and assistant sergeants-at-arms shall receive twenty dollars fifty cents ($20.50) to twenty-two dollars fifty cents ($22.50) per day each. They shall perform duties assigned to them by the persons to whom they are responsible.

Duties.

$17.50 to $19.50 per day.

(13) Secretaries to the assistant secretary of the senate and assistant chief clerk of the house shall receive seventeen dollars fifty cents ($17.50) to nineteen dollars fifty cents ($19.50) per day each. They shall perform duties assigned to them by the persons to whom they are responsible.

Duties.

$20.50 to $22.50 per day.

(14) The bill clerk, journal clerk, chief stenographer, and chief mimeograph clerk of each house are immediately responsible to the secretary of the senate or chief clerk of the house. They shall receive twenty dollars fifty cents ($20.50) to twenty-two dollars fifty cents ($22.50) per day each. They shall perform duties assigned to them by the persons to whom they are responsible.

Duties.

$18.00 to $20.00 per day.

(15) The assistant bill clerk, assistant journal clerk, assistant chief stenographer, and assistant chief mimeograph clerk of each house shall receive eighteen dollars ($18) to twenty dollars ($20) per day each. They shall perform duties assigned to them by the persons to whom they are responsible.

Duties.

$16.00 to $18.00 per day.

(16) Mimeograph clerks shall receive sixteen dollars ($16) to eighteen dollars ($18) per day each. They shall perform duties assigned by the chief mimeograph clerk of the house where employed.

Duties.

$16.00 to $18.00 per day.

(17) Reading clerks shall receive sixteen dollars ($16) to eighteen dollars ($18) per day each. They are immediately responsible to the secretary of the senate or chief clerk of the house and shall perform duties assigned by the persons to whom they are responsible.

Duties.

$16.00 to $18.00 per day.

(18) Stenographers shall receive sixteen dollars ($16)

HeinOnline -- 1971 vol. I 4 1971

to eighteen dollars ($18) per day each. They shall perform duties assigned by the persons to whom they are responsible. Duties.

(19) Supply clerks shall receive sixteen dollars ($16) to eighteen dollars ($18) per day each. They shall perform duties assigned by the sergeant-at-arms of the house where they are employed. $16.00 to $18.00 per day. Duties.

(20) The chief mailing clerk of each house shall receive twenty dollars fifty cents ($20.50) to twenty-two dollars fifty cents ($22.50) per day each. They are immediately responsible to the secretary of the senate or chief clerk of the house. $20.50 to $22.50 per day. Duties.

(21) Assistant chief mailing clerks shall receive seventeen dollars ($17) to nineteen dollars ($19) per day each. They shall perform duties assigned by the chief mailing clerk of the house where employed. $17.00 to $19.00 per day. Duties.

(22) Mailing clerks shall receive sixteen dollars ($16) to eighteen dollars ($18) per day each. They shall perform duties assigned by the chief mailing clerk of the house where employed. $16.00 to $18.00 per day. Duties.

(23) Proofreaders shall receive fourteen dollars ($14) to seventeen dollars ($17) per day each. They shall perform duties assigned by the persons to whom they are responsible. $14.00 to $17.00 per day. Duties.

(24) The chaplain of each house shall receive eleven dollars ($11) per day each. Their duties are to open the sessions each day with a prayer. $11.00 per day. Duties.

(25) Pages shall receive nine dollars ($9) per day each. They shall perform duties assigned by the persons to whom they are responsible. $9.00 per day. Duties.

(26) Doorkeepers, watchmen, janitors, and parking attendants shall receive thirteen dollars fifty cents ($13.50) to fifteen dollars fifty cents ($15.50) per day each. They shall perform duties assigned by the sergeant-at-arms in the house where employed. $13.50 to $15.50 per day. Duties.

(27) Legislative guides shall receive seventeen dollars fifty cents ($17.50) to nineteen dollars fifty cents ($19.50) per day each. They shall perform duties assigned by the sergeant-at-arms in the house where employed. $17.50 to $19.50 per day. Duties.

HeinOnline -- 1971 vol. I 5 1971

$15.00 to $17.00 per day. Duties.

(28) Typists shall receive fifteen dollars ($15) to seventeen dollars ($17) per day each. They shall perform duties assigned to them by the persons to whom they are responsible.

$17.50 to $19.50 per day. Duties.

(29) The journal typist of each house shall receive seventeen dollars fifty cents ($17.50) to nineteen dollars fifty cents ($19.50) per day each. They shall perform duties assigned by the secretary of the senate or chief clerk of the house.

$28.00 per day maximum.

(30) Any other legislative employee shall receive a salary set by the committee on legislative administration in the house where employed but not more than twenty-eight dollars ($28) per day.

Pay for days of employment. Authorization to extend employment.

Section 3. The salaries specified in this act shall be paid for every day of the legislative session during which the employee is employed. The presiding officer of each house may authorize, when necessary, the continued employment and compensation of employees for a period not to exceed fifteen (15) days after the adjournment of a session of the legislative assembly.

42nd assembly only.

Section 4. The salaries specified in this act are effective only for employees of the forty-second legislative assembly.

Modified by joint action.

Section 5. The positions and salaries specified in this act may be modified by joint action of the committees on legislative administration in each house if persons are employed jointly by the house and senate. Salaries for persons employed jointly shall be fixed by the committees on legislative administration meeting in joint session at amounts not to exceed twenty-five ($25) per day.

$25.00 per day maximum.

Effective immediately.

Section 6. This act is effective on its passage and approval.

Approved January 12, 1971.

CHAPTER 2

An Act to be Known as the Montana Higher Education Code for the Codification and Revision of the Laws

HeinOnline -- 1971 vol. I 6 1971

Pertaining to Higher Education, Including the Montana University System; Repealing Sections 75-107, 75-108, 75-109, 75-216 through 75-223, 75-301 through 75-314, 75-401 through 75-416, 75-501 through 75-515, 75-601 through 75-611, 75-701 through 75-738, 75-801 through 75-811, 75-901 through 75-907, 75-1001 through 75-1006, 75-1101 through 75-1104, 75-1201.1, 75-2014, 75-4707, R.C.M., 1947; Providing a Severability clause and Providing the Effective Date of this Act.

It is the intent of the legislative assembly that all sections of this bill be codified in title 75, R.C.M., 1947, under the chapters and sections as indicated.

Be it enacted by the Legislative Assembly of the State of Montana:

Establishment of Montana University System

Co-educational system.

Section 1. Section 75-8401. **Purpose.** The Montana university system shall instruct men and women on equal terms.

Definitions.

Section 2. Section 75-8402. **Definitions.** Subject to additional definitions contained in subsequent chapters which are applicable to specific chapters or parts, and unless the context requires otherwise, terms are defined as follows: (1) "Agricultural experiment station" means the agricultural experiment station established at Montana state university;

"Agricultural experiment station."

(2) "Regents" means the board of education serving ex officio as regents of the Montana university system;

"Regents."

(3) "State university" means the Montana state university, located at Bozeman;

"State university."

(4) "System" means the Montana university system;

"System."

(5) "University" means the university of Montana, located at Missoula.

Composition of university system.

Section 3. Section 75-8403. **Units constituting university system.** The Montana university system is composed of the following units, each designated by its legal name: (1) university of Montana, located at Missoula;

(2) Montana state university, located at Bozeman;

(3) Montana college of mineral science and technology, located at Butte;

HeinOnline -- 1971 vol. I 7 1971

(4) western Montana college, located at Dillon;

(5) eastern Montana college, located at Billings; and

(6) northern Montana college, located at Havre.

State has exclusive right to name.

Section 4. Section 75-8404. **Prohibition against use of name of system.** (1) The state has the exclusive right to the name "the Montana university system."

(2) No other institution of learning, or corporation shall use the name "the Montana university system" or similar name.

Attorney general to bring action.

(3) The attorney general shall bring action in the name of the state against any person, association, or corporation using the same or similar name.

Penalty for violation.

(4) The penalty for violation of this section shall be the dissolution of the corporation, and a sum not exceeding five hundred dollars ($500), nor less than one hundred dollars ($100).

Purposes of University of Montana.

Section 5. Section 75-8405. **Purposes of the university of Montana.** (1) The university of Montana shall have for its purpose instruction in all the departments of science, in literature, in the arts, and in industrial and professional education.

Law school.

(2) A law school is established at the university of Montana.

Forestry school.

(3) A forestry school is established at the university of Montana.

Departments of university.

Section 6. Section 75-8406. **Departments and courses of the university of Montana.** (1) The departments of the university are:

Preparatory.

(a) a preparatory department, which may be dissolved as the regents deem wise, containing courses designed to prepare a student for the regular department;

Literature, science and arts.

(b) a department of literature, science, and the arts, offering courses which shall include:

Mathematics, physical and natural sciences.

(i) mathematics, physical and natural sciences, with their application to the industrial arts;

Languages, literature, history, and philosophy.

(ii) languages, literature, history, and philosophy; and

HeinOnline -- 1971 vol. I 8 1971

(iii) other courses at the regents discretion; and Other courses.

(c) professional and technical departments.

(2) When the income of the university allows and demands require, the courses may form departments, with a faculty and an appropriate title. Courses may form departments.

Section 7. Section 75-8407. **Purpose of Montana college of mineral science and technology.** (1) The Montana college of mineral science and technology has for its purpose instruction and education in chemistry, metallurgy, mineralogy, geology, mining, milling, engineering, mathematics, mechanics, and drawing, and the laws of the United States and Montana relating to mining. Purpose of Montana college of mineral science and technology.

(2) A department designated as "the Montana state bureau of mines and geology," which shall be under the direction of the regents is established at the college. Department—The Montana state bureau of mines and geology.

Section 8. Section 75-8408. **Bureau of mines and geology—purpose.** The bureau of mines and geology shall: (1) Compile and publish statistics relative to Montana geology, mining, milling, and metallurgy. Purpose—duties—services. Statistics.

(2) Collect:

(a) typical geological and mineral specimens; Specimens samples.

(b) samples of products;

(c) photographs, models, and drawings of appliances used in the mines, mills, and smelters of Montana; and Appliances.

(d) a library and a bibliography of literature relative to the progress of geology, mining, milling, and smelting in Montana; Library.

(3) Study the geological formations of Montana, with special reference to their economic mineral resources, and ground water. Study of geological formations.

(4) Examine the topography and physical features of Montana relative to their bearing upon the occupation of the people. Topography.

(5) Study the mining, milling, and smelting in Montana relative to their improvement. Study for improvement.

(6) Publish bulletins and reports of a general and Publications.

HeinOnline -- 1971 vol. I 9 1971

detailed description of the natural resources, geology, mines, mills, and reduction plants of Montana;

Qualitative examinations.

(7) Make qualitative examinations of rocks and mineral samples.

Consideration of problems.

(8) Consider scientific and economic problems the regents deem valuable to the people of Montana.

Communication of special information cooperation.

(9) Communicate special information of Montana geology, mining and metallurgy.

(10) Cooperate with:

(a) departments of the system;

(b) the state mine inspector;

(c) departments of the state;

(d) the United States geological survey; and

(e) the United States bureau of mines.

Examination of state lands.

(11) Make examinations of state land regarding their geology and mineral value at the request of the department of state lands and investments.

Limited services.

(a) These services are limited to the time available for such work after all other duties of the bureau of mines and geology are served.

Written reports.

(b) Written reports shall be made.

Expenses of examiner.

(c) Travel, food, lodging, and incidental expenses incurred by the examiner shall be paid by the agency requesting the examination upon the presentation of claims in the ordinary form.

Deposit of material.

(12) Deposit all material collected in the state museums or in the Montana college of mineral science and technology after completed use by the bureau of mines and geology.

Distribution of material.

(13) Distribute duplicates of representative material to the units of the university system to their best educational advantage.

Printing of reports and maps.

(14) Print the regular and special reports, with illustrations and maps, and distribute them on direction of the regents.

HeinOnline -- 1971 vol. I 10 1971

Director and assistants.

Section 9. Section 75-8409. **Director and assistants.** The director and assistants of the bureau of mines and geology shall: (1) take an oath to perform all required services;

Oath.

Confidential information.

(2) guard all confidential information accumulated in their work;

Restriction on private gain.

(3) refrain from pecuniary speculation or remunerative private work based upon knowledge of a commercial or economic nature acquired through their services, until the knowledge is published and submitted to the people of Montana; and

Disposition of data.

(4) turn in to the bureau of mines and geology, as state property, all correspondence, notes, illustrations, and other accumulated data.

Purpose—Montana state university.

Section 10. Section 75-8410. **Designation and purpose of Montana state university.** (1) The land-grant university for the State of Montana, designated as Montana state university, is established at Bozeman, under the provisions of the Morrill Act of 1862.

Comprehensive institution.

(2) Montana state university shall be a comprehensive institution carrying out programs of research and public service and offering instruction in the sciences, literature and arts, including military science, as well as professional programs in agriculture, engineering and other fields as may be prescribed by the regents.

Agricultural experiment station.

Section 11. Section 75-8411. **Agricultural experiment station—purpose.** (1) There is established at Montana state university, and under its direction, an agricultural experiment station, by act of Congress approved March 2, 1887. The provisions, donations, and benefits contained in that act and all acts supplementary thereto, or amendatory thereof, are accepted and adopted by the state of Montana.

Acceptance by state.

Purpose.

(2) The agricultural experiment station shall have for its purpose aid in acquiring and diffusing among the people of Montana useful and practical information and experiments respecting agriculture, and to promote scientific investigation and experiments respecting the principles and application of agricultural science.

Acceptance by state of acts of congress.

Section 12. Section 75-8412. **Acceptance of acts of Congress.** Montana accepts the act of Congress, approved

HeinOnline -- 1971 vol. I 11 1971

May 8, 1914, entitled: "An act to provide for cooperative agricultural extension work between the agricultural colleges in the several states receiving the benefits of an act of Congress approved July second, eighteen hundred and sixty-two, and of act supplementary thereto, and the United States department of agriculture."

Wool laboratory.

Section 13. Section 75-8413. **Wool laboratory—designation—purpose.** (1) A state wool laboratory, designated as "the Montana wool laboratory," is established in the agricultural experiment station at Bozeman.

Purpose.

(2) The purposes of the laboratory shall be the sampling, testing and scouring of wool clips and fleeces of Montana woolgrowers to ascertain shrinkage, strength, fineness, length of staple, uniformity and character of wool, and carrying on of effective scientific and practical research work to develop as complete and accurate a knowledge of Montana wools as possible.

Supervision.
Director.

Section 14. Section 75-8414. **Supervision of wool laboratory.** (1) The director of the laboratory is the head of the department of animal industry and range management of the agricultural experiment station, but the laboratory shall be under the general supervision of the director of the experiment station.

Duties.

(2) The director shall perfect the field service and arrange adequate staff, equipment, and facilities subject to the counsel of the advisory committee.

Expenses.

(3) The director may incur expenditures for travel, hotel, meals, express, freight, postage, and other items necessary for the sampling, testing, and research.

Publication of results.

(4) The director, with the assistance of the laboratory staff, shall publish the results of laboratory work, and may make expenditures necessary for such publication.

Rules.

(5) The director and the advisory committee may make such reasonable rules as may be necessary for the conduct of the laboratory and its field service and for regulations with woolgrowers and members of the wool trade desiring laboratory services.

Advisory committee—3 members designated.

Section 15. Section 75-8415. **Advisory committee of the wool laboratory—powers and duties.** (1) A three (3) member advisory committee, to assist and advise in

HeinOnline -- 1971 vol. I 12 1971

the administration, field service, and all activities of the laboratory shall consist of:

(a) the director of the experiment station;

(b) one (1) member appointed to serve a three (3) year term by the governor from a list of woolgrowers named by the board of trustees of the Montana woolgrowers association; and

(c) one (1) member appointed to serve a three (3) year term by the governor from a list of persons actively engaged in the wool trade in Montana named by the director of the agricultural experiment station.

Secretary.

(2) The director of the experiment station is the secretary of the advisory committee.

Meetings.

(3) The advisory committee shall meet at least once each year to hear the annual report and participate in the formulation of the policy and program of the laboratory.

Expenses—$10.00 per diem.

(4) Per diem expenses of the appointed members shall be paid out of laboratory funds at the rate of ten dollars ($10) per day of service.

Field service.

(5) The laboratory shall maintain a field service to collect samples of Montana wool for tests from all Montana woolgrowers willing to cooperate to establish the true grade and character of the wool.

Records.

(a) Consecutive records shall be made to ascertain the types of sheep especially adapted to and productive in Montana.

Samples data.

(b) Woolgrowers submitting samples for testing shall disclose all relevant data as a condition of receiving service.

Montana grain inspection laboratory.

Section 16. Section 75-8416. **Montana grain inspection laboratory.** (1) There is established at the agricultural experiment station the Montana grain inspection laboratory.

Supervision.

(2) The laboratory shall be under the general supervision of the director of the experiment station and under the direct charge of the head of the department of plant and soil science.

HeinOnline -- 1971 vol. I 13 1971

Employment of help—expenditures. Samples. Rules.

(3) The director may employ a competent assistant and necessary help, make expenditures for travel, express, freight, and postage, collect samples for study, and in cooperation with the board of directors of the Montana seed growers' association, make such rules as are necessary for the proper conduct of the laboratory.

Duties.

(4) The laboratory shall:

Study of wheat and field crop seeds.

(a) study the milling and baking quality of wheat raised in Montana, and the germinating capacity, quality, and purity of field crop seeds grown and sold in Montana; and

Tests.

(b) make necessary tests on seed and grain samples sent in by Montana citizens to establish the true grade and amount of dockage contained in the samples, and to determine the amount of gluten and percentage of moisture, and shall make such other determinations as shall be necessary to accurately show the quality and grade of the seed or grain in sample.

Duties of director—reports.

Section 17. Section 75-8417. **Duties of director.** The director shall: (1) make a record of all samples;

(2) report the results of the milling, baking, grade, and dockage tests on their completion to the submitting parties;

(3) report the results of all tests by bulletins and pamphlets when there is sufficient data for publication;

Annual report.

(4) prepare an annual report showing relevant and important information; and

Free copy on request.

(5) send a free copy of the annual report to citizens of Montana upon request.

Payment of fees and charges.

Section 18. Section 75-8418. **Fees and other charges—disposition—report.** (1) Any Montana citizen submitting a sample to the laboratory shall prepay postage and transportation charges and shall pay any prescribed fee.

Deposit of fees.

(2) All fees collected by the laboratory for tests conducted shall be deposited in the earmarked revenue fund for the support of the laboratory.

Report of expenditures and income.

(3) A full report of the expenditures of the laboratory with a statement of the source of income, whether from state appropriations or from fees collected, shall be made a part of the annual report.

HeinOnline -- 1971 vol. I 14 1971

Section 19. Section 75-8419. **Experimental substation.** (1) There is established in Fergus County on land donated to the state of Montana, a substation under the direction of the agricultural experiment station. Experimental substation.

(2) Montana state university may receive donations of money, implements, building materials, animals, and supplies for the use of the substation. Donations.

Section 20. Section 75-8420. **Northwestern Montana branch station—designation—purpose.** (1) There is established a branch of the agricultural experiment station designated as the northwestern Montana branch station. Northwestern Montana branch station.

(2) The branch shall be located on a site in northwestern Montana to be selected by the administrative officers of the agricultural experiment station and shall be under the direction of the agricultural experiment station. Location. Direction.

(3) The purpose of the branch shall be to conduct studies, investigations, and research into agricultural problems. Purpose.

Section 21. Section 75-8421. **Eastern Montana branch experiment station—designation—purpose.** (1) There is established a branch of the agricultural experiment station designated as the eastern Montana branch station. Eastern Montana branch station.

(2) The branch shall be located on a site to be selected by the administrative officers of the agricultural experiment station subject to the approval of the regents, and it shall be under the general supervision of the director of the agricultural experiment station. The director may employ competent assistants and such other help as may be necessary to carry on the work and incur other necessary expenses for operation and maintenance. Location. Supervision. Employment of help.

(2) The purpose of the branch shall be to conduct studies, investigations, and research into agricultural problems. Purpose.

Section 22. Section 75-8422. **Western Montana branch experiment station—purpose.** (1) There is established at Corvallis the western Montana branch experiment station under the general supervision of the director of the agricultural experiment station. Western Montana branch experiment station. Supervision.

HeinOnline -- 1971 vol. I 15 1971

Purpose.

(2) This station shall conduct studies, investigations, and researches into agricultural problems of particular interest to western Montana.

Employment of help.

(3) The director of the station may employ assistants and other help necessary to carry out its work and may incur necessary expenses for operation and maintenance.

Purpose—Eastern Montana college.

Section 23. Section 75-8423. **Purpose of eastern Montana college.** Eastern Montana college has for its primary purpose the instruction and training of teachers for the public schools of Montana.

Purpose—Western Montana college.

Section 24. Section 75-8424. **Purpose of western Montana college.** Western Montana college has for its primary purpose the instruction and training of teachers for the public schools of Montana.

Donations to Eastern Montana college.

Section 25. Section 75-8425. **Donations to eastern Montana college.** The regents may accept for and on behalf of eastern Montana college any donations of lands and any other gifts for the use and benefit of the college.

Donations to Western Montana college.

Section 26. Section 75-8426. **Donations to western Montana college.** The regents may accept for and on behalf of western Montana college any donations of lands and any other gifts for the use and benefit of the college.

Regents shall accept public lands.

Section 27. Section 75-8427. **Acceptance of public lands.** (1) The regents shall receive in the names of western Montana college and eastern Montana college, all benefits derived from the distribution of lands contemplated in section 17 of an act of Congress, approved February 22, 1889 entitled "An act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and state governments and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states."

Regents may pledge one-half of income.

(2) The regents may in carrying out the provisions of chapter 2, title 75, R.C.M., 1947, pledge one-half (½) of all interest and income derived from said land grant for the payment in whole or in part of notes, bonds or other obligations issued by the regents for residence halls

HeinOnline -- 1971 vol. I 16 1971

or other facilities at western Montana college or at eastern Montana college, provided that:

(a) any such pledge shall be subject to any prior pledge; and

Subject to prior pledge.

(b) all pledges of income and interest must have the final approval of the state board of examiners.

Approval by board of examiners.

Section 28. Section 75-8428. **Purposes of northern Montana college.** (1) Northern Montana college has for its purpose, instruction and education in:

Purpose—Northern Montana college.

(a) the English language, history, literature, mathematics, bookkeeping, moral philosophy, and political, rural and household economy;

(b) mechanical arts, agricultural chemistry, animal and vegetable anatomy and physiology, and veterinary art;

(c) entomology, geology, and such other natural sciences as may be prescribed by the regents;

(d) agriculture, horticulture, and especially the application of science and the mechanical arts to practical agriculture in the field;

(e) irrigation and use of water for agricultural purposes; and

(f) all that relates to an efficient, modern manual training school.

(2) There is established a northern Montana branch agricultural experimental substation at Havre under the direction of the directors of the agricultural experiment station and the general control of the regents.

Northern Montana branch substation.

Direction.

(a) Its purposes shall be to aid in acquiring and diffusing among the people of Montana useful and practical information on subjects connected with field agriculture, and to promote scientific investigation and experiments respecting the principles and application of agricultral science.

Purposes.

Section 29. Section 75-8429. **Authority to accept gifts.** On behalf of the state, the regents may accept all gifts or grants of any kind for the use of any of the units of the university system. Gifts or grants subject to spe-

Regents may accept gifts and grants.

HeinOnline -- 1971 vol. I 17 1971

cific provisions shall be accepted and used subject to the terms of the gift or grant.

ADMINISTRATION

Part 1. Regents

State board of education ex officio regents.

Section 30. Section 75-8501. **Powers and duties.** The state board of education shall serve ex officio as regents of the Montana university system, shall use and adopt this style in all its dealings therewith, and shall: (1)

Control of university system.

Have general control and supervision of the units of the Montana university system, which shall be considered for all purposes one university.

Rules and regulations—regents.

(2) Adopt rules and regulations, not inconsistent with the constitution and the laws of the state, for its own government which are proper and necessary for the execution of the powers and duties conferred upon it by law.

Rules and regulations—system.

(3) Provide, subject to the laws of the state, rules and regulations for the government of the system.

Diplomas and degrees.

(4) Grant diplomas and degrees to the graduates of the system, upon the recommendation of the faculties, and have discretion to confer honorary degrees, upon persons other than graduates, upon the recommendation of the faculty of such institutions.

Official seal.

(5) Adopt and use, in the authentication of its acts, an official seal.

Record of proceedings.

(6) Keep a record of its proceedings.

Report.

(7) Report as provided in section 82-4002, R.C.M., 1947.

Control of property.

(8) Have, when not otherwise provided by law, control of all books, records, buildings, grounds, and other property of the system.

Receipt of property.

(9) Receive from the state board of land commissioners, other boards, persons, or from the government of the United States, all funds, incomes, and other property the system may be entitled to, and use and appropriate the property for the specific purpose of the grant or donation.

Receipts and disbursements.

(10) Have general control of all receipts and disbursements of the system.

HeinOnline -- 1971 vol. I 18 1971

Appointments.

(11) Appoint a president and faculty for each of the institutions of the system, appoint any other necessary officers, agents, and employees and fix their compensation.

Executive secretary.

(12) Appoint an executive secretary of the system, who shall not be a unit president, fix his term of office and salary, and generally prescribe his duties.

Secretary not member of board.

(a) The executive secretary is not a member of the board, but he shall serve as the secretary for the regents.

Appointment—budget committee.

(13) Appoint every two (2) years a budget committee composed of four (4) members selected from the appointive members of the regents which shall review the budget requests presented by the units of the system and transmit such requests and its recommendations to the regents.

Delegation of authority to executive boards.

(14) Confer upon the executive board of each of the units of the system, such authority as may be deemed expedient, relating to immediate control and management, other than authority relating to financial matters or the selection of the teachers, employees, and faculty.

Delegation of authority to presidents and faculty.

(15) Confer, at the regents' discretion, upon the president and faculty of each of the units of the system for the best interest of the unit such authority relating to the immediate control and management, other than financial, and the selection of teachers, and employees.

Prevent duplication.

(16) Prevent unnecessary duplication of courses at the units of the system.

Visits—all units.

(17) Investigate the needs of the units by each member of the regents visiting each unit at least once each year.

Appointment of state geologist and assistants.

(18) Appoint a certified professional geologist or registered mining engineer as the director of the Montana state bureau of mines and geology, who shall be designated the state geologist, and appoint any other necessary assistants and employees, and fix their compensation.

Report to legislative assembly.

(a) The regents shall prepare a report to each regular session of the legislative assembly showing the progress and condition of the bureau including any other necessary or required information.

HeinOnline -- 1971 vol. I 19 1971

Supervision of agricultural experiment station.

(19) Supervise and control the agricultural experiment station along with any executive or subordinate board or authority which may be appointed by the governor with the advice and consent of the regents.

Seal—custody—use.

(20) Adopt a seal bearing on its face the words "Montana university system", which shall remain in the custody of the executive secretary, and which shall be affixed to all diplomas and all other paper, instruments, or documents which may require it.

Award of degrees—regents approval.

Section 31. Section 75-8502. **Regulation of award of degrees—penalty.** (1) No person, corporation, association, or institution shall issue any degree, or such similar literary honors as are usually granted by universities or colleges without the prior approval of the regents of the adequacy of the course of study.

Exemption of accredited institutions.

(a) This section does not apply to any educational institution accredited by an educational accrediting association whose accrediting is found by the regents to be generally recognized by state and other universities in the United States.

Misdemeanor.

(2) Violation of this section is a misdemeanor.

Powers of regents.

Section 32. Section 75-8503. **Powers of regents.** The regents of the Montana university system may: (1)

Purchasing of facilities.

Purchase, construct, equip, or improve, at any unit of the Montana university system, any of the following types of revenue-producing facilities: land, residence halls, dormitories, houses, apartments and other housing facilities; dining rooms and halls, restaurants, cafeterias and other food service facilities; student union buildings and facilities; and those other facilities specifically authorized by joint resolution of the legislative assembly.

Rental of facilities, services.

(2) Rent housing facilities and provide food and other services to the students, officers, guests and employees of the unit at rates that will insure a reasonable net income over operating expenses and will provide for debt service and reserves, and provide for the collection of charges, admissions and fees for the use of other facilities by students and other persons, which charges, admissions and fees shall not be deemed to be tuition within the meaning of section 75-8601 of the Revised Codes of Montana, 1947, and may be collected from any or all students.

HeinOnline -- 1971 vol. I 20 1971

Student building fees established and in effect on January 1, 1965 which are imposed uniformly upon all students, or upon all of a specified class of students in attendance at any unit of the Montana university system, shall not be increased without authorization by law, unless absolutely necessary and then only to the extent necessary to pay principal or interest due on obligations for which such fees have been or shall be pledged, or to maintain reserves securing the payment of such obligations, in accordance with the indentures, resolutions, contracts or other instruments authorizing the issuance of such obligations; provided that at any unit of the Montana university system where the aggregate amount of student building fees in effect on January 1, 1965, was less than fifty dollars ($50) per student per academic year, such fees may be increased or additional student building fees may be established, to an aggregate amount not exceeding fifty dollars ($50) per student per academic year, and provided further that additional student building fees may be established or existing student building fees may be increased at the university of Montana, at Missoula, to an aggregate amount not to exceed ninety dollars ($90) per student per academic year. This limitation shall not affect admission or use charges, which are made to individual students or others in proportion to their use or occupancy of particular facilities or services and shall not affect any student building fees or other charges which are made to nonresident students as defined in section 75-8601, R.C.M., 1947.

Student building fees—limitations on increases.

(3) Hold the net income derived from the operation of such facilities and the charges, admissions and fees so collected and devote the revenues from these sources to debt service and reserves, repairs, replacements and betterments of the facilities or, so far as such revenues have not been previously obligated for these purposes, to the acquisition, erection, equipping, enlarging or improvement of additional facilities of the types described in this section.

Disposition of revenues.

(4) Exercise full control and complete management of such facilities.

Management of facilities.

(5) Rent the facilities to other public or private persons, firms and corporations for such uses, at such times, for such periods and at such rates as in the re-

Rentals to public for revenue.

HeinOnline -- 1971 vol. I 21 1971

gents' judgment will be consistent with the full use thereof for academic purposes and will add to the revenues available for capital costs and debt service.

Planning for facilities financing.

(6) Do all things necessary to plan for, and to propose financing including all necessary loan applications, for classroom, laboratory, library, bookstore and other instructional facilities; office, recordkeeping, storage, equipment maintenance and other administrative and operational facilities; stadiums, fieldhouses, armories, arenas, gymnasiums, swimming pools and other facilities for athletic and military instruction, exhibitions, games and contests; auditoriums, theaters, music halls and other assembly, theatrical, musical and entertainment facilities; hospital, nursing and other health instruction and service facilities; nurseries, barns, arenas, pavilions and other facilities for agricultural and livestock breeding, development and exhibition; parking lots and ramps and other parking facilities; and land needed for such facilities.

Authority to borrow money.

Section 33. Section 75-8504. **Borrowing by regents.** In carrying out the above powers, the regents may: (1) Borrow money for any purpose or purposes stated in this chapter, including, if deemed desirable by the regents, the payment of interest on the money borrowed for a facility during the construction thereof and for one (1) year thereafter and the creation of a reserve for the payment of bond principal and interest.

Time payment.

(2) Make purchases on a time or installment basis.

Issuing of bond, notes and other securities.

(3) Issue bonds, notes and other securities, negotiable or otherwise, secured as provided in this section, including bearer bonds with appurtenant interest coupons, which shall be fully negotiable notwithstanding any limitation on the source of payment thereof, or fully registered bonds, or bonds registered as to ownership of principal only.

Authority to pledge.

(4) Pledge for the payment of the purchase price of any facility or of the principal and interest on bonds, notes or other securities authorized in this chapter or otherwise obligate:

Net income.

(a) the net income received from rents, board or both in housing, food service and other facilities;

HeinOnline -- 1971 vol. I 22 1971

(b) receipts from student building, activity, union and other special fees prescribed by the regents for all students; and

Receipts from special fees.

(c) other income in the form of gifts, bequests, contributions, federal grants of funds, including the proceeds or income from grants of lands or other real or personal property, receipts from athletic and other contests, exhibitions and performances and collections of admissions and other charges for the use of facilities including all use by other persons, firms, and corporations for athletic and other contests, exhibitions, and performances and for the conduct of their business, educational, or governmental functions.

Other income.

(5) Make payments on loans or purchases from any other available income not obligated for such purposes, including receipts from sale of materials, equipment and fixtures of such facilities, or from sales of the facilities themselves other than land.

Payments on loans or purchases.

(6) Secure any bonds authorized hereunder by a trust indenture between the regents and any bank or trust company within or without the state of Montana, or by a resolution establishing covenants of the regents with the holders of such bonds, relating to the construction, operation, use and insurance of the facilities, the segregation, expenditure and audit of accounts of the bond proceeds and of the income pledged, the establishment and collection of rents, charges, admissions and fees sufficient to provide net income adequate for prompt payment of principal and interest on bonds and creation and maintenance of reserves for that purpose, and such other matters as the regents may determine to be necessary or desirable for the security and marketability of the bonds.

Secure bonds—trust indentures—covenants with bond holders.

(7) Issue and sell or exchange bonds, secured as provided in this section, for the refunding of any outstanding bonds or other obligations heretofore or hereafter issued by the regents, subject to the following provisions:

Issue, sale or exchange of bonds.

(a) Refunding bonds may, with the consent of the holders of the bonds to be refunded thereby, be exchanged at par plus accrued interest for all or part of such bonds, or may be sold at a price not less than par plus accrued interest. They may be secured by a

Refunding bonds—exchange.

Pledge.

HeinOnline -- 1971 vol. I 23 1971

pledge of the same revenue as the bonds refunded, or by a pledge of different or additional revenues received at the same unit of the university. Nothing herein shall require the holder of any outstanding bond to accept payment thereof or the delivery of a refunding bond in exchange therefor, except in accordance with the terms of such outstanding bond. Bonds may be issued to refund interest as well as principal actually due and payable, if the revenues pledged therefor are not sufficient, but not to refund any bonds or interest due which can be paid from revenues then on hand.

Bonds may issue to refund interest.

Refunding bonds—rates of interest.

(b) Refunding bonds may bear interest at a rate lower or higher than the bonds refunded thereby, if they are issued to refund matured principal or interest for the payment of which revenues on hand are not sufficient, or if they are issued to refund before maturity bonds issued before January 1, 1965, for the purpose of releasing revenues required for payment of the outstanding bonds permitting the pledge thereof for the security of other bonds as well as the refunding bonds, subject to the rights of the holders of the outstanding bonds until those bonds are fully paid and redeemed. Except as authorized in the preceding sentence, refunding bonds shall not be issued unless their average annual interest rate, computed to their stated maturity dates and excluding any premium from such computation is at least three-eighths of one per cent (⅜ of 1%) less than the average annual interest rate on the bonds refunded thereby, computed to their respective stated maturity dates.

Limitation on issue.

Deposit in escrow.

(c) In any case where refunding bonds are issued and sold six (6) months or more before the earliest date on which all bonds refunded thereby mature or are prepayable in accordance with their terms, the proceeds of the refunding bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, which is a member of the federal reserve system and has a combined capital and surplus not less than one million dollars ($1,000,000) and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each bond re-

Investment.

Payment of interest.

HeinOnline -- 1971 vol. I 24 1971

funded to its maturity or, if it is prepayable, to the earliest prior date upon which such bond may be called for redemption from the proceeds of the refunding bonds, and to pay and redeem the principal amount of each such bond at maturity or, if prepayable, at said redemption date, and any premium required for redemption on such date; and the resolution or indenture authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all income therefrom, and shall provide for the call of all prepayable bonds in accordance with their terms. The securities to be purchased with such escrow funds shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the refunding bonds.

Redemption of principal amount.

Call of bonds.

Limitations on securities purchase.

(d) Revenues or other funds on hand, in excess of amount pledged by resolutions or indentures authorizing outstanding bonds for the payment of principal and interest currently due thereon and reserves securing such payment, may be used to pay the expenses incurred by the regents for the purpose of such refunding, including but without limitation the cost of advertising and printing refunding bonds, legal and financial advice and assistance in connection therewith, and the reasonable and customary charges of escrow agents and paying agents. Revenues and other funds on hand, including reserves pledged for the payment and security of outstanding revenue bonds, may be deposited in an escrow fund created for the retirement of such bonds and may be invested and disbursed as provided in subsection (c) hereof, to the extent consistent with the resolutions or indentures authorizing such outstanding bonds.

Use of excess revenues and funds.

Deposit in escrow—purpose.

(8) Sell bonds and sell or exchange refunding bonds issued hereunder in such manner and upon such terms as to maturities, interest rates and redemption privileges, and for such price, as the regents shall determine with the approval of the state controller.

Sale of bonds—approval of state controller.

Section 34. Section 75-8505. **State not obligated.** No

State of Montana not obligated.

HeinOnline -- 1971 vol. I 25 1971

obligation created under this chapter shall ever become a charge against the state of Montana, and all such obligations, including principal and interest, shall be payable solely from the sources authorized in this chapter.

Unit income shall not discharge obligations of another unit.

Section 35. Section 75-8506. **Units of financing.** In creating and discharging obligations under this chapter, all of the revenue-producing facilities at each unit of the Montana university system may be considered as one; but income received at one (1) unit shall not be used to discharge obligations created for facilities at another unit.

Limitation—use of state funds.

Section 36. Section 75-8507. **Restriction on use of state funds.** No state funds except those specified in section 33 [75-8504] shall be obligated or used for the purposes of this chapter, unless specifically directed by the legislative assembly.

No impairment of previous contracts.

Section 37. Section 75-8508. **Previous contracts unimpaired.** This chapter shall not impair any contract, indenture or agreement executed under previous laws.

Prior obligations not affected.

Section 38. Section 75-8509. **Prior obligations not affected.** No provision of this chapter shall affect or impair: (1) any contract or undertaking, or the financing or agreement to finance any contract or undertaking entered into under the provisions of the laws repealed hereby prior to the effective date of this chapter; and

(2) the issuance of bonds to finance facilities authorized or commenced under the laws repealed hereby prior to the effective date of this chapter.

Part 2. Local Executive Boards

Unit executive boards.

Section 39. Section 75-8510. **Local executive boards, terms, and compensation.** (1) There is a local executive board for each unit of the system.

Three members appointed by governor.

(a) Each local executive board shall consist of three (3) members appointed by the governor, with the advice and consent of the regents.

President not a member.

(i) The president of each unit shall not be a member of the local executive board.

Residence.

(ii) Two (2) of the members must reside in the county where the unit is located.

HeinOnline -- 1971 vol. I 26 1971

(iii) All vacancies shall be filled by appointment by the governor and referred to the regents at their first meeting thereafter for confirmation. Vacancies.

(b) Each local executive board shall elect a chairman and appoint a secretary. Chairman and secretary elected.

(2) The members shall hold office for three (3) years beginning the third Monday in April of the year appointed. Term of office.

(a) The members may be removed by the governor or the regents. Removal.

(b) The term of office of one member shall expire each year. Expiration.

(c) The members shall qualify by filing their oath of office with the regents. Filing oath to qualify.

(3) The compensation for the members shall be fixed by the regents. Compensation.

(a) It shall not exceed five dollars ($5) for each day spent in discharging their duties nor one hundred and twenty-five dollars ($125) in any one (1) year for each member. Limitations.

(b) The member shall be reimbursed from the amount appropriated by the legislative assembly for the maintenance and support of the units for all expenses necessarily incurred in discharge of their duties. Reimbursement for expenses.

Section 40. Section 75-8511. **Powers of local executive boards.** Each local executive board shall: (1) Meet at least once each quarter, and more often if required. Meetings.

(2) Have such immediate direction and control, other than financial, of the affairs of the respective units as may be conferred by the regents. Powers.

(3) Have and exercise power and authority to:

(a) contract current expense;

(b) audit, pay, and report bills for salaries, or other expenses of the respective units.

(i) The board of examiners may not limit the power of the local executive boards in making expenditures or contracts which in no single instance or for any single $250.00 limitation.

HeinOnline -- 1971 vol. I 27 1971

purpose do not exceed two hundred and fifty dollars ($250).

Annual report.

(4) On or before the first Monday in June of each year, make a detailed report of:

Transactions.

(a) all its transactions and of the condition of the unit;

Payroll.

(b) the salary and number of teachers, professors, and employees; and

Expenses and disbursements.

(c) a detailed statement of all expenses and disbursements of the unit and any other information or recommendations as may be required by the state board of examiners, or by the state board of examiners and the regents.

Call for other reports.

(i) The regents and the state board of examiners may call for a report and statement from each local executive board at any time.

Distribution of reports.

(d) All reports shall be made in triplicate, one copy for the local executive board, one copy for the regents and one for the state board of examiners.

Part 3. Presidents

Powers of president.

Section 41. Section 75-8512. **President—powers and duties.** Subject to the supervision of the regents, the president of each of the units of the system shall: (1) have the immediate direction, management, and control of the respective units, including instruction, practical affairs, and scientific investigations;

Duties.

(2) be the president of the general faculty, and of the special faculties of the departments or colleges and the executive head of the unit in all its departments;

Professorship.

(3) have the duties of one of the professorships as long as the interests of the unit require it;

Corresponding secretary.

(4) perform the duties of corresponding secretary for the unit;

Annual report.

(5) make an annual report to the regents containing such information as they may request; and

Special reports.

(6) furnish any special report on request of the regents or the legislative assembly.

HeinOnline -- 1971 vol. I 28 1971

FINANCE

Section 42. Section 75-8601. **Charges for tuition—waiver of nonresident fees.** (1) Except in the law and medicine departments and for extra studies, tuition shall ever be free to all students who shall have been residents of the state for not less than one year next preceding their admission to any unit of the University of Montana. Tuition charges—resident students.

(2) The regents may:

(a) prescribe tuition rates for students enrolled in the law school or for extra studies, and for nonresident students; and Tuition rates.

(b) waive at its discretion, nonresident tuition for selected and approved nonresident students not to exceed at any unit two percent (2%) of the total number of students enrolled at that unit. Waiver.

(3) No nonresident student may be admitted to the exclusion of any resident student. Priority of resident students.

Section 43. Section 75-8602. **Support of university of Montana.** (1) For the support and endowment of the university there is annually and perpetually appropriated: Annual and perpetual appropriation.

(a) the university fund income, and all other sums of money appropriated by law thereto;

(b) all tuition and matriculation fees; and

(c) all contributions derived from public or private bounty.

(2) The entire income of all such funds shall be placed at the disposal of the regents by transfer to its treasurer, and shall be kept separate and distinct from all other funds. Separate fund.

(a) The income shall be used solely for the support of the colleges and departments of the university or those connected therewith. Use of income.

(3) All means derived from other public or private bounty shall be exclusively devoted to the specific objects for which they shall have been designated by the donor. Use of gifts.

HeinOnline -- 1971 vol. I 29 1971

State acceptance of act of congress.

Section 44. Section 75-8603. **Acceptance and use of grant and income from sale of products.** (1) The state of Montana assents to the provisions of an act of Congress entitled: "An act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof," approved March 16, 1906, and consents to receive the benefits thereof in the manner and for the purposes intended and provided in the act.

Beneficiary of funds.

(2) The agricultural experiment station shall be the beneficiary of the funds in the act and shall use the funds only for the purposes therein provided.

Treasurer of Montana state university shall hold funds.

(3) The treasurer of Montana state university shall receive, hold and account for the funds, and make reports to the secretary of agriculture as required by the act.

Deposit and use of income from sales.

(4) Any income received from the sale of agricultural products by the station or by any of the agricultural substations shall be deposited in the state treasury and shall be used to defray the costs of operating the station and substations.

State acceptance of act of congress.

Section 45. Section 75-8604. **Acceptance of acts of Congress.** (1) The state accepts and assents to the terms and provisions of the act of Congress, approved May 8, 1914, entitled: "An act to provide for cooperative agricultural extension work between the agricultural colleges in the several states receiving the benefits of an act of Congress approved July second, eighteen hundred and sixty-two, and of act supplementary thereto, and the United States department of agriculture."

President may receive and expend funds.

(2) The president of Montana state university may enter into all necessary agreements with the secretary of agriculture of the United States for the receipt and expenditure of all money paid under the provisions of said act.

(3) He may receive and expend such money in accordance with the provisions of said act and any agreements so made.

Treasurer may receive cash appropriations.

Section 46. Section 75-8605. **Receipt of funds.** (1) The treasurer of Montana state university may receive:

(a) the cash appropriation received from the United

HeinOnline -- 1971 vol. I 30 1971

States by authority of the act of Congress of August 30, 1890, known as the second Morrill Act, and the act of Congress of March 4, 1907, known as the Nelson Amendment, to be expended by the executive board under the general supervision of the regents only for the purpose for which it was appropriated by Congress; and

(b) all moneys appropriated by the act of Congress of March 16, 1906, entitled: "An act to provide for and increase the annual appropriation for agricultural experiment stations and regulating the expenditures thereof," to be expended under the supervision of the regents in the manner designated in the act of Congress and as required by section 75-8604, R.C.M., 1947.

Report of appropriations.

(2) On or before September 1 of each year the state university shall make detailed reports of the amounts received and disbursed under the provisions of the acts of Congress of March 30, 1890, of March 4, 1907, and of March 16, 1906, to the secretaries of agriculture and interior of the United States, as required by the acts of Congress, and shall file duplicates with the state board of examiners on or before September 10 of each year.

Section 47. Section 75-8606. **Experimental farms.** (1) In accordance with the provisions of the Morrill Act of July 2, 1862, the regents shall make available for the purchase of sites or experimental farms from any funds deposited in the Montana trust and legacy fund credited to the state university through provisions of the Morrill Land Act of 1862 known as the Agricultural College Morrill Permanent Fund, a sum not to exceed ten per cent (10%) of the amount of such fund.

Funds for purchase of experimental farms.

Limitation on amount.

(2) The total amount which may be used for purchase of needed lands for sites or experimental farms may not exceed ten per cent (10%) in the aggregate of the total amount which has now or which may accrue to the credit of the agricultural college Morrill permanent account in the Montana trust and legacy fund.

Limitation on use.

(3) No portion of the moneys apportioned from the endowment funds for the purchase of sites or experimental farms shall be applied directly or indirectly to the purchase, erection, preservation, or repair of any building or buildings.

HeinOnline -- 1971 vol. I 31 1971

Sites must be essential for research.

(4) The regents shall approve purchases of sites or experimental farms, which must be essential for the research programs of the state university.

Wool laboratory. Duties.

Section 48. Section 75-8607. **Wool laboratory funds and fees.** (1) The wool laboratory shall:

(a) cooperate fully with the United States department of agriculture for the benefit of the Montana wool industry; and

Records.

(b) keep a complete and comprehensive system of records covering its internal administration, activities and meetings of its advisory committee, and all sampling, testing and research work.

(2) The wool laboratory may:

Disposition of federal funds.

(a) receive any moneys which the federal government may make available for the use of the laboratory, and pay all such funds to the state treasurer to be deposited in a special trust fund; and

Donations.

(b) receive donations from individuals for the purposes of the laboratory, which shall also be paid to the state treasurer to be deposited in the special trust fund.

Appropriation of funds.

(3) All federal funds which may be provided and all funds which may be received by the laboratory for its use and benefit are hereby appropriated for the Montana wool laboratory.

Use of funds.

(4) All moneys collected by the Montana wool laboratory shall be used for the payment of salaries and expenses, including purchase of equipment and supplies, and the erection of necessary buildings.

Testing fees.

(5) The laboratory shall charge fees to woolgrowers which will cover actual costs for furnishing specific testing services. Such fees shall not include costs of doing research.

Assay fees.

Section 49. Section 75-8608. **Fees for assays and analyses.** (1) The president of Montana college of mineral science and technology may charge and collect reasonable fees for any assays and analyses made by the college.

Disposition of fees.

(2) The president shall keep an account of such fees and pay them monthly to the treasurer for deposit to the college fund.

HeinOnline -- 1971 vol. I 32 1971

Section 50. Section 75-8609. **Control of expenditures.** Pursuant to the terms of appropriations of the legislative assembly or of Congress or of gifts of donors, the regents shall determine the need for all expenditures, and control the purposes for which all funds shall be spent, subject to the provisions of the law dealing with the state purchasing agent.

Regents shall control expenditures.

Section 51. Section 75-8610. **Donations, grants, gifts.** All donations, grants, gifts, or devises shall be made to each unit in its legal name. If made to any officer or board of the unit, they shall be immediately transferred to the unit.

Use of legal name of each unit.

STUDENTS

Section 52. Section 75-8701. **Qualification of students.** The university system is open to all people subject to such uniform regulations as the regents deem proper. All able-bodied male students of the university system may receive instruction and discipline in military tactics, the requisite arms for which shall be furnished by the state.

University system open to all people.
Military instruction.

Section 53. Section 75-8702. **Definitions.** Terms used in this chapter are defined as follows: (1) "Domicile" means a person's true, fixed, and permanent home and place of habitation;

Definitions.
"Domicile."

(2) "Emancipated minor" means a person under the age of twenty-one (21) years who supports himself from his own earnings or is married.

"Emancipated minor."

(a) A person who received more than twenty-five per cent (25%) of the cost of supporting himself from any person other than an agency of the government shall not be considered an "emancipated minor."

Exception.

(3) "Minor" means a male or female person who has not obtained the age of twenty-one (21) years.

"Minor."

(4) "Qualified person" means a person legally qualified to determine his own domicile.

"Qualified person."

(5) "Resident student" means:

"Resident student."

(a) A student who has been domiciled in Montana for one (1) year immediately preceding registration at any unit for any term or session for which resident classification is claimed. Attendance as a full or part-time student at any college, university, or other institu-

HeinOnline -- 1971 vol. I 33 1971

tion of higher education shall not alone be sufficient to qualify for residence in Montana.

(b) Any graduate of a Montana high school whose parents, parent, or guardian have resided in Montana at least one (1) full year of the two (2) years immediately preceding his graduation from high school. Such classification shall continue for not more than four (4) academic years if the student remains in continuous attendance at a unit.

Presumptions.

Section 54. Section 75-8703. **Presumptions as to domicile.** Unless the contrary appears to the unit registering authority, it is presumed that: (1) The domicile of a minor is that:

Domicile of minor.

Father.

(a) of his father; or

Mother.

(b) of his mother if there is no father; or

Guardian.

(c) of his guardian when the court appointing the guardian certifies that the primary purpose of the appointment is not to qualify the minor as a resident of this state; or

Parent.

(d) of the parent who has custody of the minor.

Married woman.

(2) The domicile of a married woman is that of her husband, except that a resident woman student who marries a nonresident does not by that fact alone lose her resident status for tuition and fee purposes for a period of four (4) years after her marriage.

Member of armed forces.

(3) Except as provided in the next subsection, residence is not gained or lost because of relocation as a member of the armed forces of the United States.

(4) Residence may be gained by a member of the armed forces of the United States, his spouse, or his children by living in Montana for one (1) year, and complying with the provisions of this section.

New domicile.

(5) A new domicile is established by a qualified person if he is physically present in Montana with no intention to acquire a domicile outside of Montana.

Absence from state.

(6) Domicile is not lost by absence from Montana with no intention to establish a new domicile.

HeinOnline -- 1971 vol. I 34 1971

(7) Montana high school graduates are resident students of the system for four (4) consecutive years of attendance if: High school graduates.

(a) they apply for admittance to the system within one (1) year after graduation; or

(b) their parents have resided in Montana in one (1) of the two (2) years immediately preceding the graduation.

Section 55. Section 75-8704. **Evidence as to domiciliary intent—changes in status.** (1) To determine the domicile of a person, the units of the system shall apply the following rules: Rules to determine domicile.

(a) Nonpayment of Montana income tax by a person whose income is sufficient to be taxed is highly persuasive evidence of non-Montana domicile. Income tax.

(b) A person must intend to establish a domicile in Montana. Intention.

(2) After registration, a student's classification for tuition and fee purposes remains unchanged in the absence of evidence to the contrary. Student classification.

(a) A written statement of the evidence shall be filed with the registering authority of the unit. Statement.

(b) Changes in classification shall be in writing signed by the registering authority, and shall take effect at the student's next registration. Changes.

(3) A minor shall qualify for a change in status only if his parents or legal guardian or person having legal custody completes the requirements for establishing domicile heretofore set forth. Qualification of minor for change.

(4) A minor or adult student registered at any unit is not qualified for a change in his classification for tuition and fee purposes unless he completes twelve (12) continuous months of residence while not attending a unit of the system or while serving in the armed forces. 12 months residence.

(5) Any student whose request for classification as a resident student is denied has the right of appeal to the executive secretary of the Montana university system. Right of appeal.

HeinOnline -- 1971 vol. I 35 1971

Decision.

(a) Immediately upon rejection and at the request of the student, the registering authority shall forward a copy of his decision and a complete file on the student to the executive secretary.

Other evidence.

(i) The executive secretary may accept other evidence of residence from either the student, the registering authority, or other interested persons.

Determination of resident status.

(b) Within thirty (30) days of the receipt of the decision of the registering authority, the executive secretary shall determine the resident status of the student and shall notify the student and the registering authority of his decision.

Appeal to regents.

(c) The executive secretary's decision may be appealed to the regents if the regents agree to entertain such an appeal.

Section 56. Section 75-8705. **Indians—nonpayment of fees.** (1) Persons of one-fourth (¼) Indian blood or more completing a four (4) year course of an accredited high school or federal Indian school in Montana, showing evidence of studious and industrious habits, and with the recommendation of the board, may enroll in the system for four (4) years without the payment of fees.

One-fourth Indian blood—no fees.

Limited to 96 Indians per year.

(a) The number of Indian chosen each year shall not exceed ninety-six (96).

Rules.

(2) The board shall make rules governing the selection of these students.

Agent.

(a) The state superintendent of public instruction is the agent of the board in carrying out these provisions.

MISCELLANEOUS

Section 57. Section 75-8801. **Research programs—powers of units.** (1) The units of the system are authorized, singly or in cooperation, to engage in research and development programs with the prior approval of the regents.

Research and development programs authorized.

(2) Such programs may be conducted by any department of a unit or any organization established to assist the unit.

Unit may contract.

(a) A unit or organization may:

(i) contract with private organizations, companies, firms, or individuals relative to research programs;

HeinOnline -- 1971 vol. I 36 1971

(ii) conduct research programs with the penal, corrective, or custodial institutions of Montana and engage the voluntary participation of the inmates, with the prior approval of the governing board of the institution; Institutions. Voluntary participation.

(iii) accept contributions, grants, or gifts from private organizations, companies, firms, individuals, governmental agencies or departments for research programs; Contributions.

(iv) make agreements or cooperative undertakings with private organizations, companies, firms, individuals, governmental agencies or departments for research programs; Private organizations.

(v) match the funds of private organizations, companies, firms, individuals, governmental agencies or departments with available funds for research programs; Matching funds.

(vi) accumulate, invest, and expend the funds and proceeds from research programs; Disposition of funds.

(vii) acquire real and personal property reasonably required for research programs; Property.

(viii) not divert funds, proceeds, or real and personal property from the research programs; and Diversion prohibited.

(ix) not charge or obligate the state of Montana or the general funds or a unit or agency. Charge on state prohibited.

(3) The legislative assembly declares a public need for scientific research in the units of the system to promote the general welfare and to provide an adequate defense for the United States. Public need declared.

(4) Notwithstanding any inconsistent provisions of law, including laws relating to advertising for bids or competitive bidding, the state board of examiners may: Board may contract for research.

(a) contract with the United States to use the units of the system for research;

(b) expend money appropriated to a unit to provide personnel, facilities, instructional services and supplies for the contract with the United States; Expend money.

(c) repay sums expended. Repayment.

(i) Repayment from the United States shall revert to the original fund source. Reversion of funds.

HeinOnline -- 1971 vol. I 37 1971

Section 58. Section 75-8802. **Contract for military training at system.** Notwithstanding any inconsistent provisions of law, including laws relating to advertising for bids or competitive bidding, the state board of examiners may: (1) contract with the United States to train members of the armed forces and attached auxiliaries or persons designated for training by the United States at units of the system;

Board may contract military training.

Expend money.

(2) expend money appropriated to a unit to provide instructional services, dormitory facilities and board, and supplies for the contract with the United States;

Repayment.

(3) receive repayment from the United States of sums so expended without competitive bidding.

Reversion of funds.

(a) Repayment from the United States shall revert to the original fund source.

Supplementary instruction in conservation education.

Section 59. Section 75-8803. **Supplementary education in university system.** (1) To supplement the broad conservation program in the elementary and secondary schools, the units of the university system shall make available to all students in teacher preparatory courses basic instruction in conservation education.

Public service programs.

(2) The units at Bozeman and Missoula shall include instruction in conservation in their community or public service programs.

Endowed professorships.

Section 60. Section 75-8804. **Endowed professorships.** (1) A person contributing fifteen thousand dollars ($15,000) or more may endow a professorship in the system or in a department of the system.

Designation.

(2) The name and object of the professorships shall be designated by the regents.

Oath required.

Section 61. Section 75-8805. **Oath required.** (1) Every professor, instructor or teacher employed by any unit of the university system shall subscribe to the following oath or affirmation before some officer authorized by law to administer oaths:

"I solemnly swear (or affirm) that I will support the constitution of the United States of America, the constitution of the state of Montana and the laws of the United States and the state of Montana, and will, by precept and example, promote respect for the flag and the insti-

HeinOnline -- 1971 vol. I 38 1971

tutions of the United States and the state of Montana, reverence for law and order and undivided allegiance to the government of the United States of America."

(2) This oath shall be executed in duplicate before entering upon duty. One (1) copy shall be filed with the president of the employing unit and one (1) copy retained by the subscriber. Filing of oath.

(3) The above requirements shall not apply to exchange professors or temporary employees. Exceptions.

Section 62. **Severability.** It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications. Severability clause.

Section 63. Sections 75-107, 75-108, 75-109, 75-216 through 75-223, 75-301 through 75-314, 75-401 through 75-416, 75-501 through 75-515, 75-601 through 75-611, 75-701 through 75-738, 75-801 through 75-811, 75-901 through 75-907, 75-1001 through 75-1006, 75-1101 through 75-1104, 75-1201.1, 75-2014, and 75-4707, R.C.M., 1947, are repealed. Repealing clause.

Section 64. **Effective Date.** This act is effective on its passage and approval. Effective immediately.

Approved January 29, 1971.

CHAPTER 3

An Act to Authorize and Direct the Attorney General of Montana on Behalf of the Legislative Assembly and the Secretary of State of Montana to Institute a Declaratory Judgment Proceeding under the Montana Uniform Declaratory Judgment Act (Title 93, Chapter 89, R.C.M., 1947) in the Montana Supreme Court under Rule 17 of the Montana Rules of Appellate Civil Procedure (Section 93-3001, R.C.M., 1947) to Determine Certain Constitutional Questions Affecting the Constitutional Convention and the Eligibility of Persons to be Delegates to such Constitutional Convention.

HeinOnline -- 1971 vol. I 39 1971

Constitutional conventions.

Whereas, article XIX, section 8 of the constitution of the state of Montana provides for the calling of constitutional conventions; and

Submitted to electors at general election.

Whereas, by chapter 65, laws of 1969 ". . . the question whether the legislative assembly at the 1971 session, and in accordance with article XIX, section 8 of the Montana constitution shall call a convention to revise, alter, or amend the constitution of Montana" was submitted to the electors of the state of Montana at the general election held November 3, 1970; and

Results of election.

Whereas, at the general election on November 3, 1970, a total of 133,482 electors voted "For calling a constitutional convention" and 71,643 electors voted "Against calling a constitutional convention"; and

Majority vote.

Whereas, article XIX, section 8 of the constitution of the state of Montana provides in part: ". . . if a majority of those voting on the question shall declare in favor of such convention, the legislative assembly shall at its next session provide for the calling thereof"; and

Proposed enabling act.

Whereas, the forty-second legislative assembly now has under consideration a proposed convention enabling act which, among other things, will prescribe the qualification of and the manner of electing the delegates to the constitutional convention; and

Constitutional questions.

Whereas, certain constitutional questions affecting the constitutional convention and the eligibility of persons to be delegates to such constitutional convention have arisen under the provisions of the constitution of the state of Montana; and

Disposition desirable.

Whereas, it is essential for the well-being and welfare of the citizens of the state of Montana that these questions be finally and expeditiously settled and determined so that the forty-second legislative assembly may proceed promptly with the consideration of the convention enabling act now before it and prescribe without the threat of litigation to determine the constitutionality of such enabling act, (1) the number and districts from which delegates will be elected; (2) the manner of nomination and election of delegates: and (3) the qualifications of delegates to the constitutional convention; and

60 day session.

Whereas, the forty-second legislative assembly is constitutionally limited to a biennial sixty-day session; and

HeinOnline -- 1971 vol. I 40 1971

Whereas, under rule 17 of the Montana rules of appellate civil procedure (section 93-3001, R.C.M., 1947) the Montana supreme court has authority to accept original jurisdiction in emergency situations; and

Authority of supreme court.

Whereas, an emergency is created by the approval of the convention call by the people of Montana; the constitutional mandate for the forty-second legislative assembly to provide for the calling of the convention; and the existence of certain constitutional questions; and

Emergency created.

Whereas, it is deemed desirable by the forty-second legislative assembly that the Montana supreme court render a declaratory judgment on the several questions set forth in this act; and

Declaratory judgment desirable.

Whereas, the forty-second legislative assembly is vitally interested in the speedy determination of these questions, but the question has arisen whether the attorney general of Montana is authorized to institute a declaratory judgment proceeding on behalf of the legislative assembly under the Montana Uniform Declaratory Judgment Act (title 93, chapter 89, R.C.M., 1947); and

Question of authority of attorney general.

Whereas, the county clerk and recorder of Cascade County as county registrar of Cascade County will have certain duties and functions to perform in connection with the election of delegates to the constitutional convention; now, therefore,

Duties of county clerk.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The attorney general of Montana is hereby authorized and directed to institute in the Montana supreme court a declaratory judgment proceeding under title 93, chapter 89, R.C.M., 1947, on behalf of the forty-second legislative assembly and the secretary of state of Montana against the clerk and recorder of Cascade County and such other persons, if any, as the attorney general shall deem appropriate, to obtain a declaratory judgment on the following questions:

Attorney general authorized to institute declaratory judgment proceeding.

Questions.

(a) If the house of representatives is reapportioned based on the 1970 census, shall the constitutional convention be apportioned on the basis of the house of representatives elected November 3, 1970 or the house of representatives to be elected November 7, 1972?

Apportionment for constitutional convention.

HeinOnline -- 1971 vol. I 41 1971

Interpretation of phrases.

(b) Does the phrase "elected in the same manner" in section 8, article XIX of the constitution of the state of Montana refer only to the constitutional provisions for election of representatives or does it also refer to contemporary statutory provisions for "nomination" and "election" of members of the house of representatives?

May assembly provide for election of delegates.

May the legislative assembly provide for nonpartisan nomination and election of delegates to the constitutional convention?

May state and local officers serve.

(c) May state and local officers serve as delegates to the constitutional convention? Is a delegate to the constitutional convention a "state officer"?

Supreme court granted jurisdiction.

Section 2. The supreme court of the state of Montana is hereby granted jurisdiction to hear and determine said proceeding in accordance with the procedure established under title 93, chapter 89, R.C.M., 1947.

County attorney authorized to represent Cascade county.

Section 3. The county attorney of Cascade County is hereby authorized to represent the Cascade county clerk and recorder in any proceeding instituted pursuant to section 1 of this act.

Intervention on petition.

Section 4. Upon petition of any person interested in or affected by the determination of the questions presented to the court in the declaratory judgment proceeding to be instituted pursuant to section 1 of this act, the court may, in its absolute discretion, permit such person to intervene in such proceeding as a party plaintiff or defendant upon such terms and conditions as may be imposed by the court so as not to delay the proceeding.

Court costs.

Section 5. The court costs of said proceeding shall be paid by the forty-second legislative assembly.

Severability clause.

Section 6. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act.

Effective immediately.

Section 7. This act is effective on its passage and approval.

Repealing clause.

Section 8. This act is repealed effective June 30, 1973.

Approved January 18, 1971.

HeinOnline -- 1971 vol. I 42 1971

CHAPTER 4

An Act to Amend Section 43-310, R.C.M., 1947, Providing Per Diem and Expenses of Members of the Legislative Assembly and Providing that such Per Diem and Expenses Shall be Effective for the Forty-second Legislative Assembly and all Sessions Thereafter.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 43-310, R.C.M. 1947, is amended to read as follows: Amending clause.

"43-310. **Per diem, mileage and expenses of members.**

(1) Holdover members of the legislative assembly and members hereafter elected shall receive twenty dollars ($20) per day, payable weekly, during the session of the legislative assembly, and nine cents (9¢) per mile for each mile of travel to and from their residences and the place of holding the session, by the nearest traveled route. $20.00 per day during session. 9c per mile.

(2) Members shall also receive *twenty-five dollars ($25)* per day, payable weekly during the session of the legislative assembly, as reimbursement for expenses incurred in attending the session. $25.00 per day during session.

(3) The majority and minority parties in each house shall hold pre-session caucuses for the purpose of preliminary organization of the respective houses. Holdover senators, senators-elect, and representatives-elect shall receive mileage at the rate of nine cents (9¢) per mile for each mile of travel to and from their residences and the place or places of holding the pre-session caucuses." Pre-session caucuses. 9c per mile.

Section 2. This bill shall be effective for the Forty-second Legislative Assembly and all sessions thereafter. Effective for 42nd session and thereafter.

Approved January 21, 1971.

CHAPTER 5

An Act for the Codification and General Revision of Laws Relating to Public Schools and making this Act Effective upon Passage and Approval; Amending Section 10-307, R.C.M., 1947, and Repealing Sections 75-101 through

HeinOnline -- 1971 vol. I 43 1971

75-107, 75-1201.1, 75-1202 through 75-1206, 75-1301 through 75-1308, 75-1311, 75-1312, 75-1313, 75-1315, 75-1316, 75-1317, 75-1319, 75-1320, 75-1401 through 75-1406, 75-1501 through 75-1510, 75-1512 through 75-1526, 75-1528 through 75-1535, 75-1601 through 75-1626, 75-1628 through 75-1632, 75-1632.1, 75-1633 through 75-1647, 75-1701 through 75-1706, 75-1708, 75-1709, 75-1710, 75-1712, 75-1713, 75-1713.1, 75-1714 through 75-1723, 75-1723.1, 75-1724 through 75-1730, 75-1801 through 75-1813, 75-1813.1, 75-1814 through 75-1823, 75-1825 through 75-1834, 75-1901 through 75-1905, 75-2001 through 75-2009, 75-2011 through 75-2017, 75-2101 through 75-2105, 75-2201 through 75-2215, 75-2301, 75-2302, 75-2303, 75-2401 through 75-2405, 75-2405.1, 75-2406 through 75-2411, 75-2501, 75-2506, 75-2511 through 75-2516, 75-2518 through 75-2522, 75-2701 through 75-2709, 75-2709.1, 75-2709.2, 75-2710 through 75-2716, 75-2801, 75-2802, 75-2901 through 75-2910, 75-3101, 75-3102, 75-3104 through 75-3125, 75-3201, 75-3202, 75-3203, 75-3308 through 75-3311, 75-3401 through 75-3414, 75-3501, 75-3503 through 75-3511, 75-3610, 75-3611, 75-3612, 75-3612.1, 75-3612.2, 75-3612.3, 75-3613 through 75-3624, 75-3701, 75-3706, 75-3709 through 75-3714, 75-3716 through 75-3720, 75-3722 through 75-3729, 75-3729.1, 75-3734 through 75-3742, 75-3801 through 75-3806, 75-3901 through 75-3946, 75-4001 through 75-4007, 75-4101, 75-4103 through 75-4113, 75-4115 through 75-4118, 75-4120, 75-4120.1, 75-4120.2, 75-4120.3, 75-4121 through 75-4144, 75-4146 through 75-4153, 75-4201 through 75-4228, 75-4230 through 75-4242, 75-4244 through 75-4248, 75-4309 through 75-4323, 75-4413 through 75-4430, 75-4501 through 75-4506, 75-4511, 75-4512, 75-4514, 75-4515, 75-4516.1, 75-4516.2, 75-4517, 75-4518, 75-4518.1, 75-4519 through 75-4527, 75-4529 through 75-4535, 75-4537, 75-4538, 75-4540, 75-4601 through 75-4607, 75-4609 through 75-4614, 75-4701 through 75-4709, 75-4801 through 75-4809, 75-5001 through 75-5007, 75-5101, 75-5310 through 75-5317, 75-5401 through 75-5405, 75-5501 through 75-5508, R.C.M., 1947.

It is the intent of the legislative assembly that all non-amendatory sections of this bill be codified in Title 75, Revised Codes of Montana, 1947, with the subject matter under each heading assigned to a separate chapter of that title.

HeinOnline -- 1971 vol. I 44 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 10-307, R.C.M., 1947, is amended to read as follows: Amending clause.

"10-307. **Other conditions of indenture.** Every indenture shall also contain an agreement, on the part of the person to whom such child shall be bound, that he will cause such child to attend school under the compulsory attendance provisions of title 75, R.C.M., 1947." Agreement—compulsory attendance.

Section 2. Section 75-5601. **Definition.** As used in this title, unless the context clearly indicates otherwise, "board of education" means the state board of education established under the provisions of section 11, article XI of the constitution of the state of Montana. Definition—"board of education."

Section 3. Section 75-5602. **Membership.** The board of education shall have eleven (11) members, among whom the governor, the attorney general, and the superintendent of public instruction shall serve as ex officio members. The remaining eight (8) members shall be appointed by the governor with the advice and consent of the senate. Such appointments shall be subject to the following limitations: (1) they shall be equally divided among the congressional districts of the state of Montana; Eleven member board of education. Three ex officio members. Eight members appointed by governor. Limitations. Equal division.

(2) not more than four (4) shall be affiliated with the same political party or organization; Party affiliation.

(3) their terms shall be eight (8) years and, except in the case of a vacancy, only one (1) member shall be appointed each year; and Term of office.

(4) when a vacancy occurs, the governor shall appoint a member for the remainder of the term of the incumbent, and such appointments to fill vacancies shall preserve the balance required by subsections (1) and (2) above. Vacancies.

An appointed member of the board of education shall take and subscribe to the constitutional oath of office prescribed for civil officers and file it with the secretary of state before he shall have the capacity to act as a member of the board. He shall serve as a member of the board of education until his successor has been appointed and qualified. Oath. Successor.

HeinOnline -- 1971 vol. I 45 1971

Officers.
President.
Secretary.
Treasurer.
Chairman.

Section 4. Section 75-5603. **Officers and quorum.** The governor shall serve as the president of the board of education and the superintendent of public instruction shall serve as its secretary. The state treasurer shall act as treasurer to the board. In addition, the board may select an appointed member to chair its meetings in the absence of the governor.

Quorum.

A majority of the board of education membership shall constitute a quorum for the transaction of business.

Meetings at least quarterly at state capitol or unit of system.

Section 5. Section 75-5604. **Meetings.** The board of education shall hold at least quarterly meetings on the second Monday of April, July, September and December. Such meetings shall be held at the state capitol or at a unit of the Montana university system.

Special meetings.

Special meetings of the board of education may be called by the board, or by the president and secretary of the board, at any time and place, if in their judgment necessity requires such a meeting.

Notice.

The secretary of the board shall notify all members of all regular and special meetings.

$20.00 per day plus necessary expenses.

Section 6. Section 75-5605. **Per diem and expenses.** Each appointed member of the board of education shall receive twenty dollars ($20) per day and his necessary and actual expenses incurred for each day in attendance at the meetings of such board or in the performance of any duty or services as a member of such board. All such expenses and per diem shall be paid from the appropriations made by the legislative assembly for the support of the board of education or the Montana university system, whichever is applicable.

Source of money.

Board serves as regents of university system.

Section 7. Section 75-5606. **Ex officio regents.** The board of education shall serve ex officio as the regents of the Montana university system. As the regents, they shall have the power and shall perform all duties prescribed by the higher education provisions of this title. All such duties shall be performed in the name of the regents of the Montana university system.

Powers and duties of board.

Section 8. Section 75-5607. **Powers and duties.** The board of education shall have the power and it shall be its duty to: (1) effect an orderly and uniform system of

HeinOnline -- 1971 vol. I 46 1971

teacher certification and for the issuance of an emergency authorization of employment by adopting the policies prescribed by sections 75-6002 and 75-6011; Teacher certification.

(2) consider the suspension or revocation of teacher certificates, and appeals from the denial of teacher certification in accordance with the provisions of section 75-6010; Suspension, revocation.

(3) administer and order the distribution of state equalization aid in accordance with the provisions of section 75-6917; Distribution of equalization.

(4) adopt and enforce policies to provide uniform standards and regulations for the design, construction, and operation of school buses in accordance with the provisions of section 75-7004; School buses.

(5) approve or disapprove a reduction of the number of hours in a district's school day in accordance with the provisions of section 75-7403; School day.

(6) adopt policies prescribing the conditions when school may be conducted on Saturday, and the types of pupil-instruction-related days and approval procedure for such days in accordance with the provisions of sections 75-7404 and 75-7405; Saturday school and instruction-related days.

(7) adopt standards of accreditation and establish the accreditation status of every school in accordance with the provisions of sections 75-7501 and 75-7502; Standards of accreditation.

(8) establish the scope of conservation education in the schools in accordance with the provisions of section 75-7509; Conservation education.

(9) approve or disapprove educational media selected by the superintendent of public instruction for the educational media library in accordance with the provisions of section 75-7511; Educational media library.

(10) as the governing board of the state of Montana for vocational education, adopt the policies prescribed by and in accordance with the provisions of section 75-7702; Vocational education.

(11) consider applications for post-secondary vocational-technical center designation in accordance with the provisions of section 75-7707; Center designation.

HeinOnline -- 1971 vol. I 47 1971

Programs and budgets. Rates and fees. Lease and purchase agreements.

(12) for the purposes of post-secondary vocational-technical centers, approve or disapprove programs and budgets, direct the distribution of monies in support of such budgets, determine tuition rates and fees, enter into lease agreements or real property purchases in accordance with the post-secondary vocational-technical center provisions of the vocational education chapter of this title;

Special education.

(13) adopt policies for the conduct of special education in accordance with the provisions of section 75-7802;

Community college districts.

(14) supervise community college districts in accordance with the provisions of sections 75-8103 and 75-8119;

Elections. Organization.

(15) call an election, determine the results of the election, order and implement the organization of a community college district in accordance with the community college districts chapter of this title; and

Other duties.

(16) perform any other duty prescribed from time to time by this title or any other act of the legislature.

Section 9. Section 75-5608. **Other powers and duties.** The board of education shall have the power and it shall be its duty to: (1) adopt rules and regulations, not inconsistent with the constitution or laws of the state of Montana, necessary for its own government or the proper execution of the powers and duties conferred upon it by law;

Adoption of rules and regulations.

Seal.

(2) adopt and use an official seal to authenticate its official acts;

Record.

(3) keep a record of its proceedings; and

Report to governor.

(4) submit a written report to the governor of its activities during the immediately preceding fiscal biennium in accordance with the provisions of section 82-4002, R.C.M., 1947.

"Superintendent of public instruction" defined.

Section 10. Section 75-5701. **Definition.** As used in this title, unless the context clearly indicates otherwise, "superintendent of public instruction" means that state government official designated as a member of the executive department by section 1 of article VII of the constitution of Montana.

Election of superintendent.

Section 11. Section 75-5702. **Election and qualification.** A superintendent of public instruction for the state

HeinOnline -- 1971 vol. I 48 1971

of Montana shall be elected by the qualified electors of the state at the general election preceding the expiration of the term of office of the incumbent.

Any person shall be qualified to assume the office of superintendent of public instruction who: (1) has attained the thirtieth anniversary of his birth date at the time of his election; Qualifications. 30 years of age.

(2) has resided within the state for the two (2) years next preceding his election; 2 year residence.

(3) holds at least a bachelor's degree from any unit of the Montana university system or from an institution recognized as equivalent by the board of education for teacher certification purposes; and Bachelor's degree.

(4) otherwise possesses the qualifications for such office which are required by the constitution of the state of Montana. Other qualifications.

Section 12. Section 75-5703. **Term, oath and vacancy.** The superintendent of public instruction shall hold office at the seat of government for the term of four (4) years. He shall assume office on the first Monday of January following his election and shall hold the office until his successor has been elected and qualified. Any person elected as the superintendent of public instruction shall take the oath of a civil officer. 4-year term. Oath.

If the office of superintendent of public instruction becomes vacant, it shall be filled in the manner prescribed by the constitution of the state of Montana. Vacancy.

Section 13. Section 75-5704. **Staff.** The superintendent of public instruction shall have the power to employ, organize, and administer a staff of personnel to assist him in the administration of the duties and services of the office. In organizing his staff, the superintendent of public instruction shall employ: (1) a supervisor of physical education who is a graduate of an accredited institution of higher education with a master's degree in physical education; Hiring staff. Supervisor of physical education.

(2) a professional staff for the state supervision and administration of vocational education in accordance with the provisions of section 75-7703; and Vocational education.

HeinOnline -- 1971 vol. I 49 1971

Special education.

(3) a special education supervisor who is a graduate of an accredited institution of higher education with a master's degree in a field of special education for the mentally retarded or physically handicapped, and who has not less than two years experience in special education.

Discretionary staff.

Section 14. Section 75-5705. **Discretionary staff.** In addition to the positions of employment listed in section 75-5704, the superintendent of public instruction may employ: (1) one (1) or more assistant superintendents, one of whom may be designated, with the approval of the board of education, as assistant superintendent for vocational education;

Assistant superintendents.

High school supervisor.

(2) a high school supervisor who is the holder of a class 3 teacher certificate with a district superintendent endorsement;

Elementary supervisor.

(3) an elementary supervisor who is the holder of a valid teacher certificate;

Transportation.

(4) a competent person to develop economy and efficiency in school transportation, and to otherwise supervise the transportation program;

Music supervisor.

(5) a music supervisor who is a graduate of an accredited institution of higher education in music education and who has not less than five (5) years of teaching experience;

Media supervisor.

(6) an educational media supervisor who is a graduate of an accredited institution of higher education and who has experience in the field of educational media; and

Others.

(7) any other supervisors or assistants as may be required to carry out the duties of his office.

Section 15. Section 75-5706. **Administrative powers and duties.** In administering the affairs of his office, the superintendent of public instruction shall have the power and it shall be his duty to: (1) keep a record of his official acts and all documents applicable to the administration of the office, preserve all official reports submitted to him for the period required by law, and surrender them to his successor at the expiration of his term;

Records.

Documents.

Official reports.

HeinOnline -- 1971 vol. I 50 1971

(2) preserve all books, educational media, instructional equipment and any other articles of educational interest and value which come into his possession; and surrender them to his successor at the expiration of his term; Preservation of property.

(3) cause the printing and distribution of all reports and forms necessary for the proper conduct of business by a district or school in the manner prescribed by the provisions of this title; Printing and distribution.

(4) provide and keep an official seal of the superintendent of public instruction by which his official acts shall be authenticated; Seal.

(5) whenever he deems necessary but not more than once every four (4) years, cause the printing of a complete and updated volume of the school laws of the state which shall be offered and sold at cost of the printing and shipping to any school official or other person; Printing of school laws.

(6) whenever a replacement volume is not printed under the provisions of subsection (5), cause the printing of a cumulative supplement to the most recent volume of school laws immediately after the conclusion of any session of the legislative assembly at which new school laws or amendments to the school laws were adopted. It shall be offered and sold at cost of the printing and shipping to any school official or other person; Printing of supplements.

(7) submit a written report to the governor of his activities during the immediately preceding fiscal biennium in accordance with the provisions of section 82-4002, R.C.M., 1947; Report to governor.

(8) if deemed necessary, publish a biennial report of the superintendent of public instruction, as prescribed by section 82-4002, R.C.M., 1947; Biennial report.

(9) counsel with and advise county superintendents on matters involving the welfare of the schools and, when requested, shall give a county superintendent a written answer to any question concerning school law; Counsel for county superintendents.

(10) call an annual meeting of the county superintendents when he deems it advisable; Annual meeting.

(11) as far as he shall find it practicable, address public assemblies on subjects pertaining to education in Montana; and Public addresses.

HeinOnline -- 1971 vol. I 51 1971

Promote welfare of schools.

(12) faithfully work in all practical and possible ways for the welfare of the public schools of the state.

Section 16. Section 75-5707. **Powers and duties.** The superintendent of public instruction shall have the general supervision of the public schools and districts of the state, and he shall have the power and shall perform the following duties or acts in implementing and enforcing the provisions of this title: (1) resolve any controversy resulting from the proration of joint costs by a joint board of trustees under the provisions of section 75-5929;

General supervision.

Resolve controversies.

Teacher certifications.

(2) issue, renew or deny teacher certification and emergency authorizations of employment and give notice of teacher certification suspension or revocation proceedings to be conducted by the board of education in accordance with the provisions of the teacher certification chapter of this title;

Reciprocal tuition agreements.

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of section 75-6318;

Pay tuition at Twin Bridges.

(4) pay the tuition for the residents of the Montana children's center at Twin Bridges high school in accordance with the provisions of section 75-6319;

Serve on retirement board.

(5) serve on the teachers retirement board in accordance with the provisions of section 75-6203;

Voting forms and rules.

(6) prescribe absentee voting forms and rules in accordance with the provisions of section 75-6416;

High school boundary commission.

(7) approve or disapprove the orders of a high school boundary commission in accordance with the provisions of section 75-6528;

Opening of schools.

(8) approve or disapprove the opening or reopening of a school in accordance with the provisions of sections 75-6602, 75-6603, 75-6604, or 75-6605;

School isolation.

(9) approve or disapprove school isolation within the limitations prescribed by section 75-6608;

School budgets.

(10) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of section 75-6702, and prescribe the school budget format in accordance with the provisions of section 75-6704 and 75-7209;

HeinOnline -- 1971 vol. I 52 1971

(11) establish a system of communication for calculating joint district revenues in accordance with the provisions of section 75-6721; Communication of district revenues.

(12) approve or disapprove the adoption of a district's emergency budget resolution under the conditions prescribed in section 75-6725, and publish rules and regulations for an application for additional state aid for an emergency budget in accordance with the approval and disbursement provisions of section 75-6729; Emergency budgets. Publication of rules.

(13) generally supervise the school financial administration provisions as prescribed by section 75-6802; Financial administration.

(14) appoint the responsible county officials for the performance of the budgeting duties and the financial administration duties for a joint district in accordance with the provisions of sections 75-6720 and 75-6803; Appointment of budget officials.

(15) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of subsection (5) of section 75-6806, and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of section 75-5809; Annual report forms.

(16) approve, disapprove or adjust an increase of the average number belonging (ANB) in accordance with the provisions of sections 75-6903 and 75-6904; Increase of ANB.

(17) distribute state interest and income monies and state equalization aid in support of the foundation program in accordance with the provisions of sections 75-6908, 75-6918, and 75-6919; Distribution of monies.

(18) estimate the statewide per census child payment for the state interest and income monies and the state equalization level for the foundation program in accordance with the provisions of sections 75-6911 and 75-6920; Estimates.

(19) distribute state impact aid in accordance with the provisions of section 75-6925; State impact aid.

(20) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of section 75-7005; Uniform transportation.

(21) approve or disapprove an adult education pro- Adult education.

HeinOnline -- 1971 vol. I 53 1971

gram for which a district proposes to levy a tax in accordance with the provisions of section 75-7207;

Federal monies.

(22) request, accept, deposit and expend federal monies in accordance with the provisions of section 75-7303;

Authorize use of federal monies.

(23) authorize the use of federal monies for the support of an interlocal cooperative agreement in accordance with the provisions of sections 75-7306 and 75-7307;

Interstate contracts.

(24) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of section 75-7308;

Saturday school and instruction-related days.

(25) approve or disapprove the conduct of school on a Saturday or on pupil-instruction-related days in accordance with the provisions of sections 75-7404 and 75-7405;

Standards of accreditation.

(26) recommend standards of accreditation for all schools to the board of education, and evaluate compliance with such standards and recommend accreditation status of every school to the board of education in accordance with the provisions of sections 75-7501 and 75-7502;

Curriculum guides.

(27) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of sections 75-7505 and 75-7506;

Scope of conservation education.

(28) recommend the scope of conservation education in the schools to the board of education in accordance with the provisions of section 75-7509;

Educational media library.

(29) establish and maintain a library of visual, aural, and other educational media in accordance with the provisions of section 75-7511;

Textbooks.

(30) license textbook dealers, maintain a textbook library, initiate prosecution of textbook dealers violating the law, and supply a textbook listing in accordance with the provisions of the textbooks chapter of this title;

Executive officer for vocational education.

(31) administer and perform the duties as the executive officer of the board of education for vocational education in accordance with the provisions of section 75-7703;

Vocational education center.

(32) consider applications for the designation of a post-secondary vocational-technical center in accordance with the provisions of section 75-7707;

HeinOnline -- 1971 vol. I 54 1971

(33) establish a fund for the handling of post-secondary vocational-technical center fees in accordance with the provisions of section 75-7714; Fund for fees.

(34) supervise and coordinate the conduct of special education in the state in accordance with the provisions of section 75-7803; Conduct of special education.

(35) administer the traffic education program in accordance with the provisions of section 75-7904; Traffic education.

(36) administer the school fund services program in accordance with the provisions of sections 75-8002, 75-8003, and 75-8004; School fund services program.

(37) determine the result of an organization election for a community college district and the related election of trustees in accordance with the provisions of section 75-8112; Community college districts.

(38) review school building plans and specifications in accordance with the provisions of section 75-8206; Building plans.

(39) publish and distribute fire danger books in accordance with the provisions of section 75-8309; Fire danger books.

(40) prescribe the method of identification and signals to be used by school safety patrols in accordance with the provisions of section 75-8310; and School safety patrols.

(41) perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of education. Other duties.

Section 17. Section 75-5708. **School census and interest and income distribution.** When the superintendent of public instruction receives the school census and under-six-years-old census reports from a county superintendent, he shall examine both census reports to determine any errors or duplicate entries between districts, especially districts located in separate counties. Whenever an error or duplication is discovered, he shall notify the county superintendent or county superintendents of such error or duplication. Each county superintendent shall explain the inclusion of such child on a district's report and the superintendent of public instruction shall include or delete the name of the child on the basis of the explanation. If a county superintendent does not reply in less than fifteen Superintendent of public shall examine school census—procedure. Notice.

HeinOnline -- 1971 vol. I 55 1971

(15) days, the superintendent of public instruction shall delete the name of the child he has questioned.

Superintendent shall distribute monies.

After the superintendent of public instruction has completed a review of all the district census reports and tabulated the statewide total of these reports, he shall distribute the state interest and income monies on the basis of the school census reports of the children who are six (6) years of age or older but who have not yet reached their twenty-first birthday under the provisions of sections 75-6908 and 75-5936.

Superintendent shall resolve controversies.

Section 18. Section 75-5709. **Controversy appeal.** The superintendent of public instruction shall decide matters of controversy when they are appealed from: (1) a decision of a county superintendent rendered under the provisions of section 75-5811; or

(2) a decision of a county transportation committee rendered under the provisions of section 75-7015.

Decision based on transcript.

The superintendent of public instruction shall make his decision on the basis of the transcript of the fact-finding hearing conducted by the county superintendent or county transportation committee, documents presented at the hearing, affidavits, verified statements, or sworn testimony as to the facts in issue. The decision of the superintendent of public instruction shall be final, subject to adjudication or the proper legal remedies in the state courts.

Decision final.

In order to establish a uniform method of hearing and determining matters of controversy arising under this title, the superintendent of public instruction shall prescribe and enforce rules of practice and regulations for the conduct of hearings and the determination of appeals by all school officials of the state.

Conduct of hearings.

"County superintendent" defined.

Section 19. Section 75-5801. **Definition.** As used in this title, unless the context clearly indicates otherwise, "county superintendent" means the county government official designated as the school officer of the county by section 5 of article XVI of the constitution of Montana.

Election.

Section 20. Section 75-5802. **Election and qualification.** A county superintendent shall be elected in each county of the state unless a county manager form of government has been organized in the county. The county

HeinOnline -- 1971 vol. I 56 1971

superintendent shall be elected at the general election preceding the expiration of the term of office of the incumbent.

Any person shall be qualified to assume the office of the county superintendent who: (1) possesses the qualifications required by the constitution of the state of Montana; Qualifications.

(2) holds a valid teacher certificate issued by the superintendent of public instruction; and Certificate.

(3) has not less than three (3) years of successful teaching experience. Experience.

Section 21. Section 75-5803. **Term, oath and vacancy.** The county superintendent shall hold office for a term of four (4) years. He shall assume office on the first Monday of January following his election and shall hold the office until his successor has been elected and qualified. Term 4 years.

Any person elected as the county superintendent shall take the oath or affirmation of office and shall give an official bond, as required by law. Oath.

If the office of county superintendent becomes vacant, the board of county commissioners shall appoint a replacement to fill the vacancy. Such replacement shall serve until the next regular general election when a person shall be elected to serve the remainder of the initial term, if there be any remaining term. Vacancy.

Section 22. Section 75-5804. **Office costs and staff.** The board of county commissioners shall supply the county superintendent with suitable office space and office supplies. The county superintendent shall be paid from the county general fund all necessary traveling expenses that he actually incurs in discharging his duties after such expenses have been audited by the board of county commissioners. Office space and supplies. Traveling expenses.

Upon the county superintendent's recommendation of a candidate, the board of county commissioners may appoint such candidate to the position of chief deputy county superintendent. The commissioners also may appoint deputies and assistants for the county superintendent. The commissioners shall fix the salaries of the per- Deputies may be appointed. Salaries.

HeinOnline -- 1971 vol. I 57 1971

sonnel prescribed by this section at ninety per cent (90%) or less of the salary of the county superintendent.

Section 23. Section 75-5805. **Powers and duties.** The county superintendent shall have general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts: (1) determine, establish and re-establish trustee nominating districts, and fill additional trustee position vacancies in accordance with the provisions of sections 75-5903, 75-5904, and 75-5905;

General supervision of county schools.

Trustees.

Administer oaths. (2) administer and file the oaths of members of the trustees of the districts in his county in accordance with the provisions of section 75-5916;

Trustee vacancies. (3) fill by appointment any trustee position vacancies when required under the provisions of section 75-5918;

Registration. (4) register the teacher certificate or emergency authorization of employment of any person employed in the county as a teacher, principal, or district superintendent in accordance with the provisions of section 75-6106;

Tuition applications. (5) act on each tuition application submitted to him in accordance with the provisions of sections 75-6313, 75-6314, 75-6315 and 75-6316, and transmit the tuition information required by section 75-6317;

Audit report. (6) file a copy of the audit report for a district or a school's extracurricular fund in accordance with the provisions of sections 75-6807 or 75-6323;

Classify districts. (7) classify districts in accordance with the provisions of section 75-6503;

Boundaries. (8) keep a transcript and reconcile the district boundaries of the county in accordance with the provisions of section 75-6504;

Responsibilities for districts. (9) fulfill all responsibilities assigned to him under the provisions of this title regulating the organization, alteration or abandonment of districts;

Unification proposals. (10) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with sections 75-6538 and 75-6539;

Estimation of ANB. (11) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of sections 75-6602, 75-6603, 75-6604, or 75-6606;

HeinOnline -- 1971 vol. I 58 1971

School isolation applications.

(12) process and, when required, act on school isolation applications in accordance with the provisions of section 75-6608;

Completion of budgets.

(13) complete the budgets, compute the budgeted revenues and tax levies, give notices of the budget meetings, file final and emergency budgets and fulfill such other responsibilities assigned to him under the provisions of this title regulating school budgeting systems;

Annual report.

(14) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of section 75-6804;

Apportionment of monies.

(15) quarterly, unless otherwise provided by law, order the county treasurer to apportion state monies, county school monies and any other school monies subject to apportionment in accordance with the provisions of sections 75-6909, 75-6914, 75-6919, 75-6921, 75-7022, 75-7023, or 75-6805;

Transfers of ANB.

(16) act on any request to transfer average number belonging (ANB) in accordance with the provisions of subsection (3) of section 75-6903;

Sources of revenue.

(17) calculate the estimated, budgeted general fund sources of revenue in accordance with the provisions of sections 75-6911 and 75-6920, and the other general fund revenue provisions of the general fund chapter of this title;

Computation of revenues.

Reports.

(18) compute the revenues and the district and county levy requirements for each fund included on each district's final budget, and report such computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds chapters of this title;

Bus driver certifications—transportation.

(19) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of sections 75-7003, 75-7020, or 75-7022;

Recommendation of books.

(20) for districts which do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of sections 75-7519 or 75-7603;

HeinOnline -- 1971 vol. I 59 1971

Textbook dealer activities.

(21) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of section 75-7607, and otherwise comply with the textbook dealer provisions of this title;

Federal monies for indigent children.

(22) act on district requests to allocate federal monies for indigent children for school food services in accordance with the provisions of section 75-8006; and

Other duties.

(23) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of education, or the rules and regulations of the superintendent of public instruction.

Section 24. Section 75-5806. **Additional positions.** In his capacity as county superintendent, he also shall serve as: (1) the county superintendent for a joint district under the conditions prescribed by sections 75-6720, 75-6803, and 75-6106;

Additional positions of county superintendent.

Clerk of budget board.

(2) the clerk of the board of school budget supervisors, as prescribed by section 75-6703;

Chairman—transportation committee.

(3) the chairman of the county transportation committee, as prescribed by section 75-7014;

Boundary commission.

(4) a member of the high school boundary commission of the county, as prescribed by section 75-6521;

Attendance officer.

(5) an attendance officer for a district under the conditions prescribed by section 75-6305; and

Clerk—joint board of trustees.

(6) the clerk of a joint board of trustees under the conditions prescribed by section 75-5928.

Other powers and duties.

Section 25. Section 75-5807. **Other powers and duties.** The county superintendent shall have the power and it shall be his duty to: (1) administer the oath of office to trustees without the receipt of pay for administering the oath;

Administer oath to trustees.

Keep records, reports, books, documents.

(2) keep a record of his official acts, preserve all reports submitted to him under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender such records, books, supplies and equipment to his successor;

Annual report of financial information.

(3) within ninety (90) days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information

HeinOnline -- 1971 vol. I 60 1971

for the school fiscal year just ended for each district of the county:

(a) the total of the cash balances of all funds maintained by the district at the beginning of the year, Cash balances.

(b) the total receipts that were realized in each fund maintained by the district, Receipts.

(c) the total expenditures that were made from each fund maintained by the district, and Expenditures.

(d) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and Cash balances.

(4) hold meetings for the members of the trustees from time to time at which matters for the good of the districts shall be discussed. Meetings of trustees.

Section 26. Section 75-5808. **Assist trustees with school supervision.** The county superintendent shall assist the trustees of any district that does not employ a district superintendent or principal with the supervision of their schools by: (1) visiting each school of the district at least once a school year while pupil instruction is being conducted to observe the instructional methods, ability of the teacher, progress and discipline of the pupils, and the general conditions of the school; Assist trustees. Annual school visits.

(2) special visits to the schools on request of the trustees; Special visits.

(3) advising and directing teachers on instruction, pupil discipline, and other duties of the teacher; Advise teachers.

(4) consulting with the trustees on all school matters that may be found during the observation of the school or may otherwise come to the attention of the county superintendent. Consult trustees.

Section 27. Section 75-5809. **Annual report and receipt.** The county superintendent of each county shall submit an annual report to the superintendent of public instruction not later than the first day of September. Such report shall be completed on the forms supplied by the superintendent of public instruction which shall require the reporting of: (1) the final budget information for each district of the county, as prescribed by subsection (1) of section 75-6719; Annual report to superintendent of public instruction. Final budget information.

HeinOnline -- 1971 vol. I 61 1971

Financial activities of each district.

(2) the financial activities of each district of the county for the immediately preceding school fiscal year as provided by the trustees annual report to the county superintendent under the provisions of subsection (5) of section 75-6806;

Pupil information.

(3) the pupil information for each district provided the county superintendent under the provisions of subsection (4) of section 75-6108 or subsection (7) of section 75-6113; and

Other information.

(4) any other information that may be requested by the superintendent of public instruction which is within his authority prescribed by this title.

Receipt for annual report.

When the superintendent of public instruction receives a complete annual report from the county superintendent, he shall immediately issue a receipt for the annual report to such county superintendent. The county superintendent shall present the receipt to the board of county commissioners and, if the county commissioners do not

Salary shall be withheld.

receive the receipt, they shall not pay the county superintendent's salary for the last two (2) months of the calendar year until the receipt is presented to them.

County superintendent shall examine school census.

Section 28. Section 75-5810. **School census review, transmittal and receipt.** When the county superintendent of any county receives the school census and the under-six-years-old census from a district as prescribed by section 75-5937, he shall examine both census reports to determine any errors or duplications with other districts of the county. In order to facilitate this examination

Keep updated family card index.

the county superintendent shall maintain and update with each school census and under-six-years-old census an alphabetical card index of each family with each child of the family listed on the family card for all the families of the county.

The county superintendent shall examine the school census and under-six-years-old census reports of each

Duplication of names.

district for: (1) duplication of the same child's name on the reports of separate districts;

Fictitious names.

(2) fictitious names on the reports;

Age of children.

(3) the names of children who are too old or too young for inclusion on the report on which he is listed; or

HeinOnline -- 1971 vol. I 62 1971

(4) names of children who were not residents of the district on the first day of October in accordance with the terms of residence prescribed by section 75-5936. Whenever the county superintendent's examination indicates a duplication or other error in completing the reports, he shall notify the reporting district or districts. Each district shall explain the inclusion of such children on its reports and the county superintendent shall include or delete the name of each such child on the basis of the explanation. If a district does not reply in less than fifteen (15) days, the county superintendent shall delete the names of the children that he has questioned.

Residency.

Notice to districts of errors.

After the county superintendent has completed his examination of each district's school census and under-six-years-old census reports and not later than the first day of December, he shall submit such reports to the superintendent of public instruction. The superintendent of public instruction shall immediately issue a receipt for the reports to the county superintendent when a complete report for each district of the county is received, and the county superintendent shall not be paid his salary after the first day of December until such receipt is presented to the board of county commissioners.

Reports of census to superintendent of public instruction.

Receipt for report.

Salary shall be withheld.

Section 29. Section 75-5811. **Controversy appeals and hearings.** The county superintendent shall hear and decide all matters of controversy arising in his county as a result of decisions of the trustees of a district in the county. Furthermore, he shall hear and decide all controversies arising under: (1) section 75-6315 or 75-6316 relating to the approval of tuition applications;

County superintendent shall hear controversies.

(2) section 75-6104 relating to the termination of services of a tenure teacher; or

Termination of services.

(3) any other provision of this title for which a procedure for resolving controversies is not expressly prescribed.

Other.

The county superintendent shall hear the appeal and take testimony in order to determine the facts related to the controversy and may administer oaths to the witnesses that testify at the hearing. He shall prepare a written transcript of the hearing proceedings. The decision on the matter of controversy which is made by the

Appeal.

Testimony.

Oaths.

Transcript.

Decision based on facts.

HeinOnline -- 1971 vol. I 63 1971

county superintendent shall be based upon the facts established at such hearing.

Appeal to state superintendent.

The decision of the county superintendent may be appealed to the superintendent of public instruction and, if it is appealed, the county superintendent shall supply a transcript of the hearing and any other documents entered as testimony at the hearing to the superintendent of public instruction.

"Trustees" defined.

Composition of trustees.

Section 30. Section 75-5901. **Definition.** As used in this title, unless the context clearly indicates otherwise, "trustees" means the governing board of a district. The trustees shall be composed of the number of trustee positions prescribed for a district by section 75-5902. When exercising the power and performing the duties of trustees, the members shall act collectively and only at a regular or a properly called special meeting.

Number of trustee positions elementary districts.

Section 31. Section 75-5902. **Number of trustee positions.** The number of trustee positions in a district shall vary in the following manner according to the type of district: (1) the number of trustee positions in each elementary district shall vary according to the district's classification, as established by section 75-6503;

(a) there shall be seven (7) trustee positions in a first class elementary district;

(b) there shall be five (5) trustee positions in a second class elementary district; or

(c) there shall be three (3) trustee positions in a third class elementary district.

High school districts.

(2) the trustees of a high school district, except a high school district operating a county high school, shall be composed of:

(a) the trustees of the elementary district where the high school building is located, or, if there is more than one (1) elementary district where high school buildings are located the trustees of the elementary district designated by the high school boundary commission; and

(b) the additional trustee positions determined in accordance with section 75-5903.

County high school districts.

(3) The trustees of a high school district operating a county high school shall be composed of seven (7) trustee positions.

HeinOnline -- 1971 vol. I 64 1971

Section 32. Section 75-5903. **Request and determination of number of high school district additional trustee positions.** As provided in subsection (2) (b) of section 75-5902, each high school district, except a high school district operating a county high school, may have additional trustee positions when the trustees of a majority of the elementary districts with territory located in the high school district, but without representation on the high school district trustees under the provision of subsection (2) (a) of section 75-5902, request the establishment of such additional trustee positions.

Additional trustee positions.

A request for additional trustee positions shall be made to the county superintendent by a resolution of the trustees of each elementary district. When a resolution has been received from a majority of the elementary districts without representation on the high school district trustees, the county superintendent shall determine the number of additional trustee positions for the affected high school district in accordance with the following procedure: (1) The taxable valuation of the elementary district which has its trustees placed on the high school trustees shall be divided by the number of positions on the trustees of such elementary district to determine the taxable valuation per trustee position.

Request to county superintendent.

Taxable valuation per trustee position.

(2) The taxable valuation used for the calculation in subsection (1) above shall be subtracted from the taxable valuation of the high school district to determine the taxable valuation of the territory of the high school district without representation on the high school district trustees.

Determination of taxable valuation.

(3) The taxable valuation determined in subsection (2) above shall be divided by the taxable valuation per trustee position calculated in subsection (1) above. The resulting quotient shall be rounded off to the nearest whole number.

The number determined in subsection (3) above shall be the number of additional trustee positions except that the number of additional trustee positions shall not exceed four (4) in a first or second class high school district or two (2) in a third class high school district that is not eligible for an additional trustee position at large.

Determination of additional trustee positions.

Limitations.

HeinOnline -- 1971 vol. I 65 1971

Third trustee—third class high school district.

The county superintendent shall designate a third additional trustee position in a third class high school district when two thirds (2/3) or more of the high school enrollment of the high school district and two-thirds (2/3) or more of the taxable valuation of the high school district is located outside of the elementary district which has its trustees placed on the high school district trustees. The person who fills such additional trustee position shall be elected at large from the entire high school district.

Election at large.

Section 33. Section 75-5904. **Establishment and purpose of trustee nominating districts.** After the county superintendent has determined the number of additional trustee positions, he shall establish trustee nominating districts in that portion of the high school district without representation on the high school trustees. There shall be one (1) trustee nominating district for each additional trustee position, except the additional trustee at large. Unless it is impossible, the trustee nominating district boundaries shall be coterminous with elementary district boundaries.

Trustee nominating districts.

Purpose.

The purpose of the trustee nominating district shall be to establish a representative district for the nomination and election of a resident of such district to be an additional member of the trustees of a high school district.

Qualified electors.

The electors qualified to vote in the high school district under the provisions of section 75-6410 and who reside in the trustee nominating district shall be the only electors who may vote for the additional trustee representing such district. They also shall be permitted to vote for a trustee position at large, if there is one, but for no other high school trustee position.

Appointment and election—additional trustees.

Any additional trustee position established under the provisions of this section shall be filled in a manner prescribed under the provisions of section 75-5918. Each additional trustee position filled by appointment under this section shall be subject to election at the next regular school election.

County superintendent shall redetermine trustee positions.

Section 34. Section 75-5905. **Redetermine additional trustee positions and subsequent adjustments.** At any time there is a revision of the taxable valuation of the high school district or the elementary districts within it, or there is a reclassification of the elementary district which has its trustees placed on the high school district

HeinOnline -- 1971 vol. I 66 1971

trustees, the county superintendent shall redetermine the number of additional trustee positions for the high school district in accordance with section 75-6406. If there is a change in the allowable number of additional trustee positions, the county superintendent shall reestablish the trustee nominating districts in accordance with section 75-5904. If the number of additional trustee positions is less than the previous number of positions, the county superintendent shall designate which present additional positions shall terminate upon his order reestablishing the trustee nominating districts. If the number of additional trustee positions is more than the previous number of positions, such additional trustee positions shall be filled in the manner prescribed under the provisions of section 75-5918. Each additional trustee position filled by appointment under this section shall be subject to election at the next regular school election.

Section 35. Section 5906. **Election and term of office.** Every trustee position prescribed by this title, except the trustee positions of a high school district operating a county high school, shall be subject to election and the term of office for each position shall be three (3) years unless it is otherwise specifically prescribed by this title.

Election—3 year term.

Section 36. Section 75-5907. **Legislative intent to elect less than majority of trustees.** It is the intention of the legislature that the terms of a majority of the trustee positions of any district with elected trustees shall not regularly expire and be subject to election on the same regular school election day. Therefore, in elementary districts, there shall not be more than three (3) trustee positions in first class districts, two (2) trustee positions in second class districts, or one (1) trustee position in third class districts regularly subject to election at the same time. In high school districts there shall not be more than two (2) additional trustee positions in first or second class districts, or more than one (1) in third class districts regularly subject to election at the same time.

Legislative intent—terms of majority of trustees shall not expire on same day.

While it is the intention of the legislature that the terms of a majority of trustees of any district shall not regularly expire and be subject to election at the same time, it is recognized that the following circumstances, relating to the terms of trustees appointed to newly created positions or to positions vacated by death, resignation or operation of law, may lead to a subsequent school

Exceptions.

HeinOnline -- 1971 vol. I 67 1971

New elementary district.

election in which a majority of trustee positions are subject to election at the same time: (1) the creation of a new elementary district under the provisions of section 75-6518;

Consolidation.

(2) the consolidation of two (2) or more elementary districts to form an elementary district under the provisions of section 75-6506;

Additional trustee positions.

(3) the establishment of additional trustee positions of a high school district under the provisions of section 75-5904 or 75-5905;

Change of classification.

(4) the change of a district's classification under the provisions of section 75-6503;

Filling vacancies.

(5) the filling of a trustee position which has become vacant under the provisions of section 75-5917 or any other provision of law; or

Appointments subject to next election.

(6) any other circumstance arising under the law wherein a trustee position is filled by appointment subject to election at the next regular school election.

Elementary districts.

Section 37. Section 75-5908. **Determination of terms after creation or consolidation of elementary districts.** Whenever the trustees are elected at one (1) regular school election under the circumstances described in subsections (1) and (2) of section 75-5907, the members who

Elected trustees shall draw by lot to determine terms.

are elected shall draw by lot to determine their terms of office. Such terms of office by trustee position shall be: (1) three (3) for three (3) years, two (2) for two (2) years, and two (2) for one (1) year in a first class elementary district;

(2) two (2) for three (3) years, two (2) for two (2) years, and one (1) for one (1) year in a second class elementary district; or

(3) one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year in a third class elementary district.

Additional trustees.

Section 38. Section 75-5909. **Determination of terms after establishment or re-establishment of additional trustee positions.** Whenever all of the additional trustee positions are subject to election at one (1) regular school election under the circumstance described in subsection (3)

HeinOnline -- 1971 vol. I 68 1971

of section 75-5907, the members who are elected shall draw by lot to determine their terms of office. Such terms of office by number of members elected shall be: (1) two (2) for three (3) years, if four (4) are elected;

Elected trustees shall draw by lot.

(2) one (1) for three (3) years, if one (1), two (2) or three (3) are elected;

(3) one (1) for two (2) years, if two (2), three (3) or four (4) are elected; and

(4) one (1) for one (1) year, if three (3) or four (4) are elected.

Whenever the re-establishment of the additional trustee positions for a high school district under the provisions of section 75-5905 results in an increased number of additional trustee positions, the members who are elected at the next regular school election shall draw by lot to determine their terms of office and such terms shall be determined in accordance with the additional trustee terms prescribed in this section.

Re-establishment of additional trustees.

Elected trustees shall draw by lot.

Section 39. Section 75-5910. **Determination of terms after change of district classification.** Whenever the change of an elementary district classification requires the addition of trustee positions to the trustees of such district under the circumstance described in subsection (4) of section 75-5907, the members who are elected shall draw by lot to determine their terms of office which shall be one (1) for three (3) years and one (1) for two (2) years.

Reclassification of district.

Elected trustees shall draw by lot.

Section 40. Section 75-5911. **Term of vacated trustee position after election.** Whenever a trustee position is subject to election because a vacancy of such position has occurred since the last regular school election day, the term of the trustee position shall not change and the member elected to fill such position shall serve the remainder of the unexpired term.

Term of vacated trustee position.

Section 41. Section 75-5912. **Annual election.** In each district an election of trustees shall be conducted annually on the regular school election day, the first Saturday of April, unless an election of trustees is excused under the provisions of section 75-5914. Election of trustees shall comply with the election provisions of this title.

Annual election of trustees.

First Saturday in April.

Section 42. Section 75-5913. **Candidate qualification and nomination.** Any person who is qualified to vote in a district under the provisions of section 75-6410 shall be eligible for the office of trustee.

Trustee candidate qualification.

HeinOnline -- 1971 vol. I 69 1971

Nominations.

Any five electors qualified under the provisions of section 75-6410 of any district, except a first class elementary district, may nominate as many trustee candidates as there are trustee positions subject to election at the ensuing election. The name of each person nominated for candidacy shall be submitted to the clerk of the district not less than twenty (20) days before the regular school election day at which he is to be a candidate. If there are different terms to be filled, the term for which each candidate is nominated shall also be indicated.

Submitted to clerk 20 days before election.

Section 43. Section 75-5914. **Nomination caucus in first class elementary district and election waiver.** In first class elementary districts, trustee candidates shall be nominated at a caucus attended by not less than twenty (20) electors of the district who are qualified under the provisions of section 75-6410. The caucus shall be conducted not less than forty (40) days nor more than sixty (60) days before the regular school election day.

Nomination caucus—20 electors.

40 to 60 days before election.

When a candidate nominating caucus is conducted, it shall be a public meeting and a caucus chairman and secretary shall be elected by the caucus participants. The caucus may nominate any number of candidates.

Caucus shall be public.

Within ten (10) days after the date of the caucus meeting, the chairman and secretary of the caucus shall certify and file the nominations of the candidates with the clerk of the district by stating the date and place of the caucus, and the name of each candidate nominated. If there are different terms to be filled, the term for which each candidate is nominated also shall be stated.

Chairman and secretary shall certify nominations.

Any votes for a person who has not been nominated in the manner provided by this section shall not be considered by the trustees of a first class elementary district when canvassing and certifying the election results. Whenever not more than one candidate per trustee position subject to election has been nominated, the clerk of the district shall report such fact to the trustees. The trustees shall certify the election of the nominated candidates and no trustee election shall be conducted on the regular school election day.

Votes not considered.

One candidate.

Trustees shall certify election.

Section 44. Section 75-5915. **Conduct of election and ballot.** The trustees of each district shall call a trustee election on the regular school election day of each school fiscal year under the provisions of section 75-6406, except

HeinOnline -- 1971 vol. I 70 1971

as provided in section 75-5914. The trustees shall call and conduct the trustee election in the manner prescribed in this title for school elections. Any elector qualified to vote under the provisions of section 75-6410 may vote at a trustee election. The trustee election ballots shall be substantially in the following form:

Trustees shall call and conduct trustee election.

OFFICIAL BALLOT

Official ballot form.

SCHOOL TRUSTEE ELECTION

INSTSRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the name of the candidate for whom you wish to vote.

Vote for (indicate number to be elected) for a three (3) year term:

☐ (List the names of the candidates for a three (3) year
☐ term with a vacant square in front of each name.)

Vote for (indicate number to be elected) for a two (2) year term:

☐ (List the names of the candidate for a two (2) year
☐ term with a vacant square in front of each name.)

Vote for (indicate number to be elected) for a one (1) year term:

☐ (List the names of the candidates for a one (1) year
☐ term with a vacant square in front of each name.)

In preparing the ballots, only those portions of the prescribed ballot that are applicable to the election to be conducted need to be used. The ballot also shall be prepared with blank lines and vacant squares in front of the lines in a sufficient number to allow write-in voting for each trustee position that is subject to election, except that write-in voting shall not be available in a first class elementary district.

Preparation of ballot.

When additional trustees in a high school district are to be elected, a separate ballot shall be used in each nominating district showing only the names of those candidates for which the electors of such district are entitled to vote.

Separate ballot.

Section 45. Section 75-5916. **Qualification and oath.** Any person who receives a certificate of election as a trustee under the provisions of section 75-6423 shall not

Trustee qualification.

HeinOnline -- 1971 vol. I 71 1971

Oath.

assume the trustee position until he has qualified. Such person shall qualify by completing and filing an oath of office with the county superintendent not less than fifteen (15) days after the receipt of the certificate of election.

Term of office.

After a person has qualified for a trustee position, he shall hold such position for the term of the position and until his successor has been elected or appointed and has been qualified.

Appointment.

If the elected person does not qualify in accordance with this requirement, a person shall be appointed in the manner provided by section 75-5918 and shall serve until the next regular election.

Section 46. Section 75-5917. **Vacancy of trustee position.** Any elected trustee position shall be vacant whenever the incumbent: (1) dies;

Vacancies defined.

(2) resigns;

(3) moves his residence from the applicable district, or from the nominating district in the case of an additional trustee in a high school district;

(4) is no longer a registered elector of the district under the provisions of section 75-6410;

(5) is absent from the district for sixty (60) consecutive days;

(6) fails to attend three consecutive meetings of the trustees without a good excuse;

(7) has been removed under the provisions of section 75-5919; or

(8) ceases to have the capacity to hold office under any other provision of law.

A trustee position also shall be vacant when an elected candidate fails to qualify under the provisions of section 75-5916.

Section 47. Section 75-5918. **Filling vacated trustee position, appointee qualification and term of office.**

Vacancies—trustee shall appoint.

Whenever a trustee position becomes vacant in a first or second class district, the remaining members of the trustees shall declare such position vacant and they shall appoint, in writing, a competent person as a successor. The trustees shall notify the appointee and the county superintendent of such appointment.

HeinOnline -- 1971 vol. I 72 1971

Whenever a trustee position becomes vacant in a third class district, the remaining members of the trustees shall declare such position vacant and notify the county superintendent of the vacancy. The county superintendent shall appoint, in writing, a competent person as a successor and notify such person of his appointment.

County superintendent shall appoint.

Any person who has been appointed to a trustee position shall qualify by completing and filing an oath of office with the county superintendent in not less than fifteen (15) days after receiving notice of his appointment. Failure to file the oath of office shall constitute a continuation of the trustee position vacancy which shall be filled under the provisions of this section.

Qualification oath.

Any person assuming a trustee position under the provisions of this section shall serve until the next regular school election and his successor has qualified.

Term of office.

Section 48. Section 75-5919. **Trustee removal.** Any trustee may be removed from his trustee position by a court of competent jurisdiction under the law providing for the removal of elected civil officials. When charges are preferred against a trustee and good cause is shown, the board of county commissioners may suspend such trustee from his trustee position until the charges can be heard in the court of competent jurisdiction.

Court may remove trustee for cause.

Suspension.

Section 49. Section 75-5920. **Trustees membership of high school district operating county high school.** There shall be seven (7) trustee positions for the trustees of a high school district operating a county high school. Unless it has been otherwise established under law, the trustees of such a high school district shall be composed of the following: (1) the county superintendent; and

Seven trustees—county high schools.

Composition.

(2) six (6) members appointed by the board of county commissioners, no more than three (3) of whom shall reside outside of the elementary district where the county high school building is located.

Section 50. Section 75-5921. **Appointment of trustees for high school district operating county high school.** When trustees of a high school district operating a county high school are appointed by the board of county commissioners, the commissioners, at their December meeting, shall appoint members of the trustees for those terms which are expiring. Each member shall be appointed for

County commissioners shall appoint.

HeinOnline -- 1971 vol. I 73 1971

a term of two (2) years beginning on the first Monday of January except that a one (1) year appointment shall be made whenever it is required to maintain the following balance of membership: (1) The terms of not more than three (3) appointed members shall expire at the same time; and

Terms of office.

(2) The terms of not more than two (2) appointed members who reside outside of the elementary district where the county high school building is located shall expire at the same time.

Any member appointed under this section shall serve until his successor has been appointed and qualifies by filing an oath of office with the county superintendent.

Vacancies defined.

Section 51. Section 75-5922. **Vacancy and filling of appointed trustee position.** In those instances where the board of county commissioners appoint the trustees of a high school district operating a county high school, a trustee position shall become vacant whenever the incumbent: (1) fails to be qualified or have the capacity to hold the trustee position under any of the applicable conditions prescribed under section 75-5917;

(2) moves his residence from the elementary district where the county high school building is located but within the high school district, and such change of residence will cause a majority of the appointed members to reside outside of such elementary district.

Board shall appoint to fill vacancy.

Whenever a trustee position is vacated, the remaining members of the trustees shall declare such position vacant and notify the board of county commissioners. The board of county commissioners shall immediately appoint a person to serve the remainder of the term for such vacated trustee position. Their appointment shall comply with the requirements of section 75-5921.

Conditions of elections—county high school districts.

Section 52. Section 75-5923. **Election to approve the election of the trustees of high school district operating county high school.** The trustees of a high school district operating a county high school may be elected when the conditions of this section are satisfied.

Petition.

Twenty per cent (20%) or more of the electors who are qualified to vote in the high school district under the provisions of section 75-6410 may petition the board of county commissioners to call an election to consider the proposi-

HeinOnline -- 1971 vol. I 74 1971

tion of electing the trustees of the high school district. Whenever the board of county commissioners receives a valid petition requesting such an election, they shall, within ten (10) days after the receipt of the petition and as provided by section 75-6406, order the trustees of the high school district to call an election on the proposition to elect the trustees.

Call of election.

The high school district trustees shall call and conduct an election in the manner prescribed in this title for school elections. Any elector qualified to vote under the provisions of section 75-6410 may vote on the proposition. The ballot for the election shall utilize the following proposition:

Ballot.

Shall the trustees of the high school district for the county high school be elected?

☐ FOR the election of trustees.

☐ AGAINST the election of trustees.

If a majority of the electors voting at the election approve the proposition, the trustees shall thereafter be elected beginning on the first regular school election day after such approval. If a majority of the electors disapprove, the trustees shall continue to be appointed under the provisions of section 75-5921.

Section 53. Section 75-5924. **Membership of elected trustees of high school district operating county high school and nomination of candidates.** Whenever the election of the trustees of a high school district operating a county high school has been approved by the electorate, the trustees shall be composed of the following: (1) four (4) trustee positions filled by members residing in the elementary district where the county high school building is located; and

Trustees approved by electorate—composition.

(2) three (3) trustee positions filled by members one of whom resides in each of the three (3) trustee nominating districts in the territory of the high school district outside of the elementary district where the county high school building is located. The county superintendent and board of county commissioners shall establish the nominating districts and, unless it is impossible, such districts shall have coterminous boundaries with elementary district boundaries.

HeinOnline -- 1971 vol. I 75 1971

Nomination.

The provisions of section 75-5913 shall govern the nomination of candidates for the trustee election prescribed in this section.

Terms of office.

Section 54. Section 75-5925. **Determination of terms of office and filling vacancy of trustee position.** The members of the trustees of a high school district operating a county high school who are elected at the first election after the voters approve the election of trustees, shall draw by lot to determine their terms. Such terms of office shall be: (1) two (2) for three (3) years, one (1) for two (2) years and one (1) for one (1) year for the trustee positions filled by members of the trustees from the elementary district where the county high school building is located; and

(2) one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year for the trustee positions filled by members of the trustees from the trustee nominating districts.

Thereafter, all terms of office shall be for three (3) years and until the successor has qualified, except in the case of electing a member to serve the remainder of an unexpired term for a vacated elected trustee position.

Vacancies.

Whenever an elected trustee position vacancy occurs under any of the circumstances prescribed by section 75-5917, the remaining members of the trustees shall declare

Appointment.

such position vacant and they shall appoint, in writing, a competent person as a successor. The trustees shall notify the appointee and the county superintendent of the appointment. The appointee shall qualify by completing and

Oath.

filing an oath of office with the county superintendent,

Term of office.

and shall serve until the next regular school election and his successor has qualified for the remainder of the unexpired term of the trustee position.

Section 55. Section 75-5926. **Delivering items to successor.** Whenever any member of the trustees, superintendent, principal or clerk of the district is replaced by

Duty to deliver property.

election or otherwise, he shall immediately deliver all books, papers and monies pertaining to the position to

Penalties.

his successor. Any such person who shall refuse to do so, or who shall willfully destroy any such material or misappropriate any monies entrusted to him, shall be guilty of a misdemeanor and, if convicted by a court of compe-

HeinOnline -- 1971 vol. I 76 1971

tent jurisdiction, shall be fined not more than one hundred dollars ($100).

Section 56. Section 75-5927. **Organization and officers.** The trustees of each district shall annually organize as a governing board of the district after the regular election day and after the issuance of the election certificates to the newly elected trustees but not later than the third Saturday of April, except that if the trustees of a high school district operating a county high school are not elected they shall annually organize as the governing board at the first regular meeting of January. In order to organize, the trustees of the district shall be given notice of the time and place where the organization meeting will be held and, at such meeting, they shall choose one of their number as the chairman. In addition, except for the trustees of a high school district operating a county high school, the trustees shall employ and appoint a competent person, who is not a member of the trustees, as the clerk of the district. The trustees of a high school district operating a county high school shall appoint a secretary, who shall be a member of the board.

Duty to organize as governing board.

Notice of meeting.

Chairman.

Clerk.

Secretary.

The chairman of the trustees of any district shall serve until the next organization meeting and shall preside at all the meetings of the trustees in accordance with the customary rules of order. He shall perform the duties prescribed by this title and any other duties that normally pertain to such officer.

Term of chairman.

Section 57. Section 75-5928. **Joint board of trustees organization and voting membership.** Whenever the trustees of a high school district operating a county high school and the trustees of the elementary district where the county high school building is located deem it to be within the best interests of the two districts, they may form a joint board of trustees for the purpose of coordinating the educational program of both districts. When a joint board of trustees is formed, all of the members of both districts' trustees shall be members of the joint board of trustees, and each member shall have the right to participate in the meetings but voting on matters considered by the joint board shall be limited by the provisions of this section.

Joint board of trustees.

At the first meeting of the joint board of trustees, there shall be a chairman of the joint board of trustees selected

Chairman.

HeinOnline -- 1971 vol. I 77 1971

from among the membership. If the county superintendent is a member of the high school trustees, he shall be the secretary; otherwise, a secretary of the joint board shall be selected from the membership. The chairman, when selected as a voting member, shall not be disqualified from voting because of his position of chairman of the board. The secretary shall not be a voting member except that he shall cast the deciding vote when three (3) successive ballots have resulted in a tie vote of the joint board of trustees.

Secretary.

Voting membership.

The voting membership of the joint board of trustees shall be equalized between the trustee membership of the two participating districts. After the selection of the chairman and the secretary, if necessary, the voting membership shall be: (1) all of the membership of the elementary district trustees unless one of its members is selected as secretary, in which case such member shall not be a voting member; and

(2) the members of the high school district trustees who are selected by such trustees as voting members of the joint board in a number equal to the number of voting members of the elementary district trustees as established under subsection (1) above. The names of the voting membership selected by the high school trustees shall be submitted in writing to the secretary of the board and shall be the only members of such district's trustees eligible to vote on joint board matters unless such list is revised in writing by the high school trustees.

One vote.

Each voting member shall be entitled to cast one vote, individually, upon every matter submitted to the joint board for a vote.

Powers of joint board.

Section 58. Section 75-5929. **Powers of joint board of trustees.** When a joint board of trustees is formed as provided by section 75-5928, it shall have the power to: (1) jointly employ a district superintendent under the provisions of section 75-6112;

(2) jointly employ teachers under the provisions of section 75-6102;

(3) open a junior high school under the provisions of section 75-6605;

(4) prescribe and administer joint administrative policy; and

HeinOnline -- 1971 vol. I 78 1971

(5) prorate all items of joint expense between the elementary and high school districts, provided that a controversy over any decision by the joint board to prorate joint costs may, within thirty days, be appealed by the trustees of either district to the superintendent of public instruction for a final decision as to what constitutes a fair and just proration of the cost.

The joint board of trustees shall not have the power to transact business that is not specifically related to the joint administration of the two districts. Limitation.

Section 59. Section 75-5930. **Meetings and quorum.** The trustees of a district shall hold at least the following number of regular meetings: (1) an organization meeting, as prescribed by section 75-5927; Regular meetings.

(2) a preliminary budget meeting, as prescribed by section 75-6707; and,

(3) in first-class elementary districts, not less than one (1) regular meeting per month; or

(4) in any other district, regular meetings during the months of April, July, October and January.

The trustees of the district shall adopt a policy setting the day and time for the minimum number of regular school meetings prescribed in subsection (3) or (4) and, in addition, any other regular meeting days the trustees wish to establish; such meetings shall be conducted in school buildings or on other property belonging to the district. Minimum number.

Special meetings of the trustees may be called by the chairman or any two (2) members of the trustees by giving each member a forty-eight (48) hour written notice of the meeting. Special meetings.

No business shall be transacted by the trustees of a district unless it is transacted at a regular meeting or a properly called special meeting. A quorum for any meeting shall be a majority of the trustees' membership. All trustee meetings shall be public meetings, as prescribed by section 82-3401, R.C.M., 1947, except that the trustees may recess to an executive session under the provisions of section 82-3402, R.C.M., 1947. Quorum. Public meetings.

Section 60. Section 75-5931. **Travel reimbursement and joint board of trustees secretary compensation.** The members of the trustees of any district shall not receive

HeinOnline -- 1971 vol. I 79 1971

Secretary may be compensated.

compensation for their services as trustees, except that the secretary of the trustees of a high school district operating a county high school or the secretary of a joint board of trustees may be compensated for his services as the secretary. The members of the trustees who reside over three (3) miles from the trustees' meeting place shall be reimbursed eight cents ($.08) for every mile necessarily traveled between their residence and the meeting place, and return in attending the regular and special meetings of the trustees, and all trustees shall be similarly reimbursed for meetings called by the county superintendent. The travel reimbursement may be accumulated during the school fiscal year and paid at the end of the fiscal year, at the discretion of each trustee.

Eight cents per mile.

Payment.

Section 61. Section 75-5932. **General powers and duties and record of acts.** The trustees of each district shall have the power and it shall be its duty to prescribe and enforce policies for the government of the district. In order to provide a comprehensive system of governing the district, the trustees shall: (1) adopt the policies required by this title; and

Duties of trustees.

Policies.

(2) adopt policies to implement or administer the requirements of the general law, this title, the policies of the board of education or the rules and regulations of the superintendent of public instruction.

Records.

The trustees shall keep a full and permanent record of all adopted policies and all other acts of the trustees.

Section 62. Section 75-5933. **Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall have the power and it shall be its duty to perform the following duties or acts: (1) employ or dismiss a teacher, principal or district superintendent in accordance with the provisions of the school personnel chapter of this title;

Employment.

Pupil attendance.

(2) administer the attendance and tuition provisions and otherwise govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

Elections.

(3) call, conduct and certify the elections of the district in accordance with the provisions of the school election chapter of this title;

Retirement system.

(4) participate in the teachers retirement system of the State of Montana in accordance with the provisions of the teachers retirement system chapter of this title;

HeinOnline -- 1971 vol. I 80 1971

(5) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title; Boundary changes.

(6) organize, open, close or acquire isolation status for the schools of the district in accordance with the provisions of the school organization chapter of this title; Schools.

(7) adopt and administer the annual budget or an emergency budget of the district in accordance with the provisions of the school budget system chapter of this title; Budgets.

(8) conduct the fiscal business of the district in accordance with the provisions of the school financial administration chapter of this title; Fiscal business.

(9) establish the ANB, foundation program, permissive levy, additional levy, cash reserve and state impact aid amount for the general fund of the district in accordance with the provisions of the general fund chapter of this title; General fund sources.

(10) establish, maintain, budget and finance the transportation program of the district in accordance with the provisions of the transportation chapter of this title; Transportation.

(11) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds chapter of this title; Bonds.

(12) when applicable, establish, financially administer and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, post-secondary vocational-technical center fund, nonoperating fund, school food services fund, miscellaneous federal programs fund, building fund, housing and dormitory fund, traffic education fund and interlocal cooperative agreement fund in accordance with the provisions of the other school funds chapter of this title; Fundings.

(13) when applicable, administer any interlocal cooperative agreement, gifts, legacies or devises in accordance with the provisions of the miscellaneous financial chapter of this title; Administration.

(14) hold in trust, acquire and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities chapter of this title; Property.

HeinOnline -- 1971 vol. I 81 1971

School calendar. (15) operate the schools of the district in accordance with the provisions of the school calendar chapter of this title;

Instruction services. (16) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, vocational education and special education chapters of this title;

Food services. (17) establish and maintain the school food services of the district in accordance with the provisions of the school food services chapter of this title; and

Other duties. (18) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of education or the rules and regulations of the superintendent of public instruction.

Section 63. Section 75-5934. **Other powers and duties.** Employment of personnel. The trustees of any district shall have the power and it shall be its duty: (1) to employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel deemed necessary to carry out the various services of the district;

Reports. (2) to make such reports from time to time as the county superintendent, superintendent of public instruction and board of education may require;

Health and sanitation. (3) to retain, when deemed advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil, and upon request make available to any parent or guardian any medical reports or health records maintained by the district pertaining to his child;

Visits. (4) for each member of the trustees, to visit each school of the district not less than once each school fiscal year to examine its management, conditions and needs; and

Display of flag. (5) procure and display outside daily in suitable weather at each school of the district an American flag which shall be not less than four (4) feet by six (6) feet.

Section 64. Section 75-5935. **Clerk of the district.** As provided in section 75-5927, the trustees shall employ and Duties of district clerk. appoint a clerk of the district. It shall be the duty of the clerk of the district to attend all meetings of the trustees

HeinOnline -- 1971 vol. I 82 1971

to keep an accurate and permanent record of all the proceedings of each meeting. If the clerk is not present at a meeting, the trustees shall have one of its members or a district employee act as clerk for such meeting, and such person shall supply the clerk with a certified copy of the proceedings. The clerk of the district also shall be the custodian of all documents, records and reports of the trustees. Unless the trustees provide otherwise, the clerk shall: (1) keep an accurate and detailed accounting record of all receipts and expenditures of the district in accordance with the financial administration provisions of this title;

Custodian.

Accounting records.

(2) prepare the annual trustees' report required under the provisions of subsection (5) of section 75-6806; and

Annual trustees' report.

(3) make an annual census of all the children of the district in accordance with sections 75-5936 and 75-5937.

Annual census.

Section 65. Section 75-5936. **School census and child eligibility.** The trustees of each elementary district shall annually take a school census of all children residing in the district who are six (6) years of age or older but who have not yet reached their twenty-first birthday. At the time the school census is taken, the trustees also shall take a census of all the children residing in the district who are less than six years old. The school census shall be taken between the fifteenth day of September and the fifteenth day of October but the age of the child or the residence of the child or parents shall be determined on the basis of his age or the residence on the first day of October.

Annual school census of children in district.

For the purpose of the school census and under-six-years-old census: (1) a child shall be a resident of a district when:

Resident child defined.

(a) he resides with his parent or guardian in the district;

(b) he has resided in the district but is temporarily living outside of the district to attend a public or private school, an institution of higher education or a Montana public institution and his parents or guardian reside in the district;

(c) he is married or has been married and resides in the district, regardless of the residence of his parents or guardian;

HeinOnline -- 1971 vol. I 83 1971

(d) he is living at a private institution located in the district that exists primarily for the rehabilitation, psychiatric or general medical care, or general welfare of the child, and such private institution may or may not also provide education for the child; or

(e) any other child who resides in the district and who is not specifically excluded under subsection (2), below.

Non-resident child defined.

(2) a child shall not be a resident of a district when:

(a) he is visiting in or passing through the district;

(b) he is living in the district for the purpose of attending a public or private school or institution which exists primarily for the purpose of providing elementary, secondary or higher education, and his parent or guardian does not live in the district;

(c) he is an unmarried child who is living in the district but his parents do not reside in the district and he is not living in a private institution, as defined in subsection (1) (c) above; or

(d) he may be properly included on the school census of some other district.

Report of census.

Section 66. Section 75-5937. **Report of school census, compensation and transmittal.** The school census and the under-six-years-old census for a district shall be reported in alphabetical order by the child's last name on the blanks supplied by the county superintendent and prescribed by the superintendent of public instruction, unless the superintendent of public instruction has authorized a district to submit its census by a data processing tabulation. The school census and the under-six-years-old census shall report the following facts: (1) The full name, age, birth date and sex of each child grouped under the family information required under subsection (2);

Required facts.

(2) The full names of both parents or guardian and the address of the parents or the guardian; and

(3) Any other information required by the superintendent of public instruction.

Compensation ten cents per name.

The trustees shall pay the clerk of the district or any other person who enumerates the children of the district

HeinOnline -- 1971 vol. I 84 1971

for the school census or under-six-years-old census at a rate not exceeding ten cents ($.10) per name properly reported. The clerk or such other person shall not be paid until the report is complete and submitted to the county superintendent. The clerk or such other person shall receive the enumeration compensation in addition to any other regular compensation the district may pay for his services.

Reports required.

The clerk or such other person conducting the census shall submit two copies of the reports, under oath, to the trustees who in turn shall submit them to the county superintendent by the first day of November. Failure to submit the report in accordance with the requirements of this section, or the inclusion of fictitious names or non-resident children on the census report shall be a misdemeanor which shall be punishable by a fine of not less than ten dollars ($10) or more than fifty dollars ($50).

Penalties.

Liabilities.

If the trustees fail to submit the school census report, the members of the trustees shall jointly be liable for the full amount of interest and income monies lost to the district. Any taxpayer of the district may bring action in the name of the district to recover the money for the district.

Taxpayer action.

Section 67. Section 75-5938. **Listing of handicapped children.** At the time the school census is taken and if the superintendent of public instruction requests such a listing, the trustees shall include a listing of handicapped children of the district as a part of their school census report on forms provided by the superintendent of public instruction. In cooperation with a public health nurse, school nurse or public health medical officer, the listing of the handicapped children shall be completed by using reasonable diligence to ascertain the names and such information for each child as may be requested by the superintendent of public instruction.

Listing of handicapped children.

Facts required.

The superintendent of public instruction may request a survey and the listing of handicapped children prescribed by this section at his discretion but in cooperation with the state department of health.

Section 68. Section 75-5939. **Purchase of liability insurance.** The trustees of any district may purchase insurance coverage for the district, trustees, and employees

Trustees may purchase liability insurance.

HeinOnline -- 1971 vol. I 85 1971

against liability for the death, injury, or disability of any person or damage to property. If such insurance is purchased, the trustees shall pay the insurance premium cost from the general fund. The provisions of section 40-4402, R.C.M., 1947, shall apply to the provisions of this section.

Trustees liable for judgments.

Section 69. Section 75-5940. **Liability of district.** The trustees of any district shall be liable in the name of the district for any judgment against the district, and they shall pay such judgments in the same manner as any other obligation of the district.

District monies.

Liability of trustees.

County attorney shall prosecute.

Costs.

Section 70. Section 75-5941. **Personal liability of trustees.** The trustees of each district shall be responsible for the proper administration and utilization of all monies of the district in accordance with the provisions of law and this title. Failure or refusal to do so shall constitute grounds for removal from office. Those trustees consenting to improper use of the monies shall be jointly and individually liable to the district for any losses the district has realized. The county attorney shall prosecute any proceeding arising pursuant to this section, or a party seeking such action may retain private counsel. The party commencing the action shall be liable for the costs if the action fails.

System of teacher certification established.

Section 71. Section 75-6001. **System of teacher certification.** In order to establish a uniform system of quality education and to insure the maintenance of professional standards, a system of teacher certification shall be established and maintained under the provisions of this title and no person shall be permitted to teach in the public schools of the state until he has obtained a teacher certificate or the district has obtained an emergency authorization of employment from the state.

Board of education shall adopt poiicies for issuance of teacher certificates.

Training and experience.

Section 72. Section 75-6002. **Board of education policies.** To effect an orderly and uniform system of teacher certification, the board of education shall, upon the recommendation of the superintendent of public instruction and in accordance with the provisions of this title, prescribe and adopt policies for the issuance of teacher certificates. Such policies shall provide for: (1) reasonable training and experience requirements for teacher, supervisor and administrative certificates and endorse-

HeinOnline -- 1971 vol. I 86 1971

ments thereon as provided by the certification classification in section 75-6006;

(2) the renewal of teacher certificates based on the same conditions prescribed for the initial issuance of certificates; Renewal.

(3) the conduct of hearings on teacher certification revocation, suspension or denial; Hearings.

(4) the issuance of emergency authorization to a district to employ a person, who is not the holder of a valid teacher certificate, as an instructor of pupils; and Emergencies.

(5) any other policy not inconsistent with the law, which is necessary for the proper operation of a system of teacher certification. Other policies.

Section 73. Section 75-6003. **Issuance of teacher certificates.** The superintendent of public instruction shall issue all teacher certificates in the state of Montana. In issuing teacher certificates, the superintendent of public instruction shall comply with the provisions of this title and the teacher certification policies adopted by the board of education. The superintendent of public instruction shall not issue a teacher certificate to any person who does not satisfy the qualifications or other requirements of this title and of the board of education policies for teacher certification. State superintendent shall issue certificates.

Section 74. Section 75-6004. **Qualifications.** Any person may be certified as a teacher when he satisfies the following qualifications: (1) He is eighteen (18) years of age or older but is not more than seventy (70) years of age; Teacher qualifications. Ages.

(2) He has a certificate of a licensed physician attesting to his satisfactory health; Health.

(3) He is a citizen of the United States except as provided in section 75-6005; Citizen.

(4) He is of good moral and professional character; Character.

(5) He has completed the teacher education program of a unit of the Montana university system, or an essentially equivalent program at an accredited institution in the United States or equal rank and standing as that of any unit of the Montana university system, and such Education.

HeinOnline -- 1971 vol. I 87 1971

training shall be evidenced by at least a bachelor's degree and a certification of the completion of the teacher education program, except as provided for in subsection (4), section 75-6006; and

Oath.

(6) He has subscribed to the following oath or affirmation before an officer authorized by law to administer oaths:

"I solemnly swear (or affirm) that I will support the constitution of the United States of America, the constitution of the state of Montana, and the laws of the United States and the state of Montana, and will, by precept and example, promote respect for the flag and the institutions of the United States and the state of Montana, reverence for law and order and undivided allegiance to the government of the United States of America."

State superintendent may issue noncitizen certificates.

Section 75. Section 75-6005. **Noncitizen teacher certification.** The superintendent of public instruction may issue a class 5 provisional certificate to a person who is not a citizen of the United States when: (1) the trustees of a district request certification of such person; and

(2) he otherwise qualifies for at least a class 5 provisional certificate.

The superintendent of public instruction also may issue an annual teacher certificate to a person who is not a citizen of the United States and who is an exchange teacher from a foreign country intending to return to that country.

Classifications of certificates.

Section 76. Section 75-6006. **Classifications of teacher certificates.** The superintendent of public instruction shall issue teacher certificates and the board of education shall adopt teacher certification policies on the basis of the following classifications of teacher certificates:

Professional.

(1) Class 1. **Professional certificate.** The professional certificate may be issued to an otherwise qualified applicant who has completed a teacher education program which includes a bachelor's degree and a minimum of one year of study beyond such degree in a unit of the Montana university system or an equivalent institution. The professional certificate may be endorsed for elementary instruction, secondary instruction or both, and

HeinOnline -- 1971 vol. I 88 1971

for specified subject fields on the basis of the applicant's academic and professional training and according to the board of education policy for teacher certification endorsement.

Standard.

(2) Class 2. **Standard certificate.** The standard certificate may be issued to an otherwise qualified applicant who has completed a four-year teacher education program and who has been awarded a bachelor's degree by a unit of the Montana university system or an equivalent institution. The standard certificate may be endorsed for elementary instruction, secondary instruction or both, and for specified subject fields on the basis of the applicant's academic and professional training and according to the board of education policy for teacher certification endorsement.

Administrative and supervisory.

(3) Class 3. **Administrative and supervisory certificate.** The administrative and supervisory certificate may be issued to an otherwise qualified applicant who is the holder of a teacher certificate endorsed for teaching in the school or schools in which he would be an administrator or he would supervise. The applicant also shall possess the training and experience required by the policies of the board of education for an endorsement as superintendent, principal, or supervisor.

Vocational, recreational or adult education.

(4) Class 4. **Vocational, recreational, or adult education certificate.** The vocational, recreational, or adult education certificate may be issued to an otherwise qualified applicant who has the qualifications of training and experience required by the United States office of education or the qualifications required by the special needs of the several vocational, recreational, or adult education fields, and who can qualify under the policy of the board of education for the issuance of this classification of teacher certification.

Provisional.

(5) Class 5. **Provisional certificate.** The provisional certificate may be issued to an otherwise qualified applicant who can provide satisfactory evidence of his intent to qualify in the future for a class 1 or a class 2 certificate and who has completed a four-year college program or its equivalent and holds a bachelor's degree from a unit of the Montana university system or its equivalent. The provisional certificate may be endorsed for elemen-

HeinOnline -- 1971 vol. I 89 1971

tary instruction, secondary instruction or both, and for special subject fields on the basis of the applicant's academic and professional training and according to the board of education policy for teacher certification endorsement.

Year defined.

For purposes of evaluating the qualifications of applicants for teacher certificates, a year means the instructional period consisting of three quarters or two semesters or other terms which are recognized as an academic year by any unit of the Montana university system or equivalent institution.

Validity of outstanding teacher certificates.

Section 77. Section 75-6007. **Outstanding teacher certificates.** No provisions of this title shall affect or impair the validity of any certificate that is in force on the effective date of this act, or the rights and privileges of the holders by virtue thereof, except that any certificate may be suspended or revoked for any of the causes and by the procedures provided by law.

Renewal eligibility.

Any holder of an elementary school standard certificate issued prior to July 1, 1959, under the previous statute and in force on July 1, 1959, shall be eligible for renewal of such certificate in accordance with the policies of the board of education until the holder qualifies for the class 2 standard certificate as provided in section 75-6006.

Any holder of a class 5 certificate in force on June 30, 1966, or issued between July 1, 1966, and December 31, 1966, shall be eligible for renewal of such certificate in accordance with the policies of the board of education until the holder qualifies for the class 2 standard certificate as provided in section 75-6006.

Terms of validity.

Section 78. Section 75-6008. **Term of teacher certificates.** Any teacher certificate issued by the superintendent of public instruction shall bear the dates of issue and validity and shall be valid for a term of five (5) school fiscal years, except that class 5 provisional certificates shall be valid for two (2) school fiscal years. The period of validity for any certificate shall begin on the first day of July immediately preceding the date of issue. Teacher certificates shall be renewed for similar periods of time on the basis of the board of education policies for teacher certification renewal.

5 years.

2 years.

First day of July.

HeinOnline -- 1971 vol. I 90 1971

Section 79. Section 75-6009. **Fees for teacher certificates.** Each person applying for the issuance or renewal of a teacher certificate shall pay a fee of two dollars ($2) for each school fiscal year that the certificate will be valid. In addition to this fee, each person who has never held any class of Montana teacher certificate or for whom an emergency authorization of employment has never been issued, shall pay a filing fee of two dollars ($2). Such fees shall be paid to the superintendent of public instruction, who shall deposit the fees with the state treasurer to the credit of the general fund.

Fees $2.00.

$2.00.

Deposit in general fund.

Section 80. Section 75-6010. **Suspension, revocation and denial appeals.** The board of education shall have the power and authority to suspend or revoke the teacher certificate of any person for any of the following reasons: (1) Any reason that would have required or authorized the denial of the teacher certificate to such person if it had been known at the time such certificate was issued;

Powers of board—revocation or suspension for cause.

(2) By reason of incompetency, immorality, intemperance, physical inability, or conviction of a felony under state law; or

(3) By reason of the failure of the certificate holder to comply with the terms of any contract between such holder and the trustees of a district without the consent of the trustees in writing or without good cause. Such breach of contract shall constitute unprofessional conduct.

Whenever a substantial reason for the suspension or revocation of the teacher certificate of any person is brought to the attention of the board of education, it shall afford the person an opportunity to defend himself and his qualifications against the charge before the board. The superintendent of public instruction shall give a thirty (30) day written notification to any person when the board of education intends to consider the suspension or revocation of his certificate. The board of education shall implement an investigation of the reasons for the suspension or revocation charge and then, if the investigation warrants further action, conduct a hearing in the manner provided by board of education policies.

Hearing.

30 day notice.

Investigation.

HeinOnline -- 1971 vol. I 91 1971

First violation penalty.

After a full investigation and proper hearing, the board of education may suspend or revoke the person's teacher certificate, except that in cases of a first violation under subsection (3) above, the maximum penalty shall not be more than a suspension of the person's certificate for the current school fiscal year and the ensuing school fiscal year.

Appeal.

Whenever the superintendent of public instruction denies the issuance or the renewal of a teacher certificate to a person, he may appeal the denial to the board of education. The appeal shall be heard in the same manner provided for in this section for suspension or revocation and in accordance with the policies of the board of education. The decision of the board of education shall be final.

Section 81. Section 75-6011. **Emergency authorization of employment.** Any district may request from the superintendent of public instruction an emergency authorization of employment for a person as an instructor of pupils who is not the holder of a valid teacher certificate when such district cannot secure the services of a person holding a valid certificate. The person shall have previously held a valid teacher certificate or shall meet the standards of preparation prescribed by the policies of the board of education for and during such emergency. Such emergency authorization of employment shall indicate: (1) the district to which such authorization is issued;

Emergency teacher employment.

Qualifications.

District.

Person.

(2) the person whom the district is authorized to employ;

Subjects.

(3) the endorsement for elementary or secondary instruction and the specific subject fields for which authorization to employ such person is given; and

Fiscal year.

(4) the school fiscal year for which such emergency authorization of employment is given.

Renewal.

$2.00 fee.

$2.00 fee.

Emergency authorization of employment of a person shall be valid for the school fiscal year identified on such authorization and may be renewed in accordance with the board of education policies. A fee of two dollars ($2) and, if no teacher certificate or emergency authorization of employment has ever been issued for such person, a filing fee of two dollars ($2) shall be paid for the issuance of an

HeinOnline -- 1971 vol. I 92 1971

amergency authorization of employment. The superintendent of public instruction shall deposit the fees with the state treasurer to the credit of the general fund. Deposit in general fund.

Emergency authorization of employment of a person may be revoked for good cause in accordance with the provisions of section 75-6010. Revocation for cause.

Section 82. Section 75-6101. **Definitions.** As used in this title, unless the context clearly indicates otherwise: Definitions.

"Teacher" means any person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of education, and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher also shall include any person for whom an emergency authorization of employment of such person has been issued under the provisions of section 75-6011. "Teacher."

"Principal" means any person who holds a valid class 3 Montana teacher certificate with an applicable principal's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher shall be construed as including a principal, as herein defined. "Principal."

"District superintendent" means any person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of education and who has been employed by a district as a district superintendent. "District superintendent."

Section 83. Section 75-6102. **Employment of teachers by contract.** The trustees of any district shall have the authority to employ any person as a teacher, but only a person who holds a valid Montana teacher certificate or for whom an emergency authorization of employment has been issued that qualifies such person to perform the duties prescribed by the trustees for the position of employment. Each teacher shall be employed under written contract and each contract of employment shall be authorized by a proper resolution of the trustees and shall be exe- Teacher contracts.

HeinOnline -- 1971 vol. I 93 1971

cuted in duplicate by the chairman of the trustees and the clerk of the district in the name of the district, and by the teacher.

Illegal provisions.

No contract of employment with a teacher shall require such teacher to teach more than five (5) days a week or on any holiday recognized by section 75-7406. No deduction shall be made from a teacher's salary by reason of the fact that a holiday falls on a school day. Any teacher's contract made in conflict with the five-days-per-week provision of this section shall not be enforceable against the teacher.

Joint board teacher contracts.

Whenever the trustees of a county high school and the trustees of the elementary district where the county high school is located form a joint board of trustees under the provisions of section 75-5928, such joint board of trustees may execute a contract of employment with a teacher who shall serve both districts. When such a contract is executed, the two districts shall prorate the compensation provided by such contract on the basis of the total number of instructional hours expended by such teacher within each district.

Prorate compensation.

Oath.

Any contract executed under the provisions of this section may contain the oath or affirmation prescribed in section 75-6004 and the teacher shall subscribe to such oath or affirmation before an officer authorized by law to administer oaths.

Section 84. Section 75-6103. **Teacher tenure.** Whenever a teacher has been elected by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position requiring teacher certification except as a district superintendent, the teacher shall be deemed to be re-elected from year to year thereafter as a tenure teacher at the same salary and in the same or a comparable position of employment as that provided by the last executed contract with such teacher, unless: (1) the trustees resolve by majority vote of their membership to terminate the services of the teacher in accordance with the provisions of section 75-6104;

Fourth consecutive year.

Teacher tenure.

Termination by majority vote.

Closing school.

(2) the trustees close the school, as provided in section 75-6607, for which the teacher is employed; or

Age 65.

(3) the teacher will attain the age of sixty-five (65) years before the ensuing first day of September and the

HeinOnline -- 1971 vol. I 94 1971

trustees have notified the teacher in writing by the first day of April that his services will not be needed in the ensuing school fiscal year, except that the trustees may continue to employ such a teacher from year to year until the school fiscal year following his seventieth (70th) birthday. Notice. Maximum age 70.

Section 85. Section 75-6104. **Termination of tenure teacher services.** Whenever the trustees of any district resolve to terminate the services of a tenure teacher under the provisions of subsection (1) of section 75-6103, they shall notify such teacher in writing before the first day of April of such termination. Any tenure teacher who receives a notice of termination may request, in writing ten (10) days after the receipt of such notice, a written statement declaring clearly and explicitly the specific reason or reasons for the termination of his services, and the trustees shall supply such statement within ten (10) days after the request. Within ten (10) days after the tenure teacher receives the statement of reasons for termination, he may request in writing a hearing before the trustees to reconsider their termination action. When a hearing is requested, the trustees shall conduct such a hearing and reconsider their termination action within ten (10) days after the receipt of the request for a hearing. If the trustees affirm their decision to terminate the teacher's employment, the tenure teacher may appeal their decision to the county superintendent and, subsequently, either the teacher or the trustees may appeal to the superintendent of public instruction under the provision for the appeal of controversies in this title. Termination—tenure teacher. Notice. Statement. Hearing. Appeal.

Section 86. Section 75-6105. **Notification of tenure teacher re-election.** The trustees shall provide written notice to all tenure teachers who have been re-elected by the first day of April. Any tenure teacher who does not receive notice of re-election or termination shall be automatically re-elected for the ensuing school fiscal year. Any tenure teacher who receives notification of his re-election for the ensuing school fiscal year shall provide the trustees with his written acceptance of the conditions of such re-election within twenty (20) days after the receipt of the notice of re-election, and failure to so notify the trustees within twenty (20) days shall constitute conclusive evidence of his nonacceptance of the tendered position. Notice of re-election. Acceptance within 20 days. Nonacceptance.

HeinOnline -- 1971 vol. I 95 1971

Section 87. Section 75-6106. **Teacher certification registration.** Any person employed as a teacher, principal, or district superintendent shall register his certificate or the district shall register its emergency authorization of employment for a teacher with the county superintendent of the county wherein he is employed in order to validate his employment status and permit payment under his employment contract. If a teacher does not register his certificate with the county superintendent within sixty (60) calendar days after the teacher begins to perform his services, he shall not be eligible to receive any further compensation under his contract of employment until he has registered his certificate. After the schools of a district have been open for sixty (60) calendar days in the current school fiscal year, the county superintendent shall notify each district of the county of each teacher who has registered his current valid certificate, and the district shall not pay any teacher who has not registered his certificate until the county superintendent does notify the district of such registration.

Registration of certificates.

Within 60 days.

Notice to district.

Pay withheld.

A teacher employed by a joint district shall register his certificate with the county superintendent of the county performing the budgeting functions for the joint district, as defined in section 75-6720.

Joint district teacher—registration.

Section 88. Section 75-6107. **Dismissal of teacher under contract.** The trustees of any district may dismiss a teacher before the expiration of his employment contract for immorality, unfitness, incompetence, or violation of the adopted policies of such trustees. Any teacher who has been dismissed may appeal such dismissal to the county superintendent. If the county superintendent, after a hearing, determines that the dismissal by the trustees was made without good cause, he shall order the trustees to reinstate such teacher and to compensate such teacher at his contract amount for the time lost during the pending of the appeal.

Dismissal for cause.

Appeal.

Section 89. Section 75-6108. **Duties of teacher.** Any teacher under contract with a district shall: (1) conform to and enforce the laws, board of education policies, and the policies of the trustees of the district;

Duties.

(2) utilize the course of instruction prescribed by the trustees;

Instruction.

(3) keep, in a neat and businesslike manner, a teach-

Teacher's register.

HeinOnline -- 1971 vol. I 96 1971

er's register in the form and on the blanks prescribed by the superintendent of public instruction;

(4) immediately after the conclusion of each school instructional year and before the tenth (10th) day of July, prepare an annual report in the manner and on the forms prescribed by the superintendent of public instruction which shall include the pupil attendance and absence data from his teacher's register that is necessary to calculate ANB, and such report shall be submitted to: Annual report. Submission.

(a) the district superintendent, if there be one,

(b) the principal of the school, if there be one and there is no district superintendent, or

(c) the county superintendent or all county superintendents when the teacher is reporting for a joint district, if there is no district superintendent or principal;

(5) exercise due diligence in the care of school grounds and buildings, furniture, equipment, books and supplies; and Care of property.

(6) provide moral and civic instruction by: Instruction.

(a) endeavoring to impress the pupils with the principles of morality, truth, justice and patriotism; Principles.

(b) teaching the pupils to avoid idleness, profanity and falsehood;

(c) instructing the pupils in the principles of free government and training them to comprehend the rights, responsibilities and dignity of American citizenship.

The trustees shall be authorized to withhold the salary warrant of any teacher who does not comply with the provisions of subsections (1) or (2) above until such teacher does comply with such provisions. Salary may be withheld.

The trustees shall not pay any teacher his last month's salary until he has provided a complete and accurate annual report to the required person, as determined by such person, and as required in subsection (4) of this section.

Section 90. Section 75-6109. **Power of teacher over pupils and undue punishment.** Any teacher shall have the authority to hold any pupil to a strict accountability for any disorderly conduct in school, on the way to or from Authority over pupils.

HeinOnline -- 1971 vol. I 97 1971

school, or during intermission or recess. Whenever a teacher shall deem it necessary to inflict corporal punishment in order to maintain orderly conduct of a pupil, he shall administer such corporal punishment without undue anger and only in the presence of the principal, if there be one. Before any corporal punishment is administered, the parent or guardian shall be notified of the teacher's intention to so punish his child; except that in cases of open and flagrant defiance of the teacher or of the authority of the school, the teacher may administer corporal punishment with giving such notice.

Corporal punishment.

Notice to parent.

Exception.

Any teacher in a district not employing a district superintendent or a principal of the school where the teacher is assigned shall have the authority to suspend a pupil for good cause. Where a district superintendent or principal is employed only he shall have the authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, he shall notify the trustees immediately of such action, and the trustees shall meet as soon as practicable to consider the suspension action of the teacher.

Suspension of pupils.

Notice to trustees.

It shall be the duty of any teacher to report the truancy or incorrigibility of any pupil to the district superintendent, principal, or the trustees, whichever is applicable.

Truancy.

Any teacher who shall maltreat or abuse any pupil by administering any undue or severe punishment shall be deemed guilty of a misdemeanor and, upon conviction of such misdemeanor by a court of competent jurisdiction, shall be fined not more than one hundred dollars ($100).

Penalties for maltreatment.

Section 91. Section 75-6110. **Abuse of teachers.** Any parent, guardian, or other person who shall insult or abuse a teacher anywhere on the school grounds or school premises shall be deemed guilty of a misdemeanor and, upon conviction of such misdemeanor by a court of competent jurisdiction, shall be fined no less than ten dollars ($10) nor more than one hundred dollars ($100).

Penalties for abuse of teachers.

Section 92. Section 75-6111. **Attendance of state teachers' association annual session.** The teachers of any district shall be allowed to attend the annual session of the state teachers' association without loss of salary for those days of the session for which the trustees close the schools of the district.

Annual session of state teachers association.

HeinOnline -- 1971 vol. I 98 1971

Section 93. Section 75-6112. **Appointment and dismissal of district superintendent or county high school principal.** The trustees of any high school district, except a county high school, and the trustees of the elementary district where its high school building is located shall jointly employ and appoint a district superintendent. The trustees of a county high school shall employ and appoint a district superintendent except that they may employ and appoint a holder of a class 3 teacher certificate with a district superintendent endorsement as the county high school principal in lieu of a district superintendent. The trustees of any other district may employ and appoint a district superintendent.

Trustees shall employ district superintendent.

Whenever a joint board of trustees has been formed by a county high school and the elementary district where the county high school is located, such joint board shall jointly employ and appoint a district superintendent. During the term of contract of the jointly appointed district superintendent, neither district shall separately employ and appoint a district superintendent or county high school principal.

Joint board shall employ.

The written contract of employment of a district superintendent or a county high school principal shall be authorized by the proper resolution of the trustees of the district or the joint board of trustees, and executed in duplicate by the chairman of the trustees or joint board of trustees and the clerks of the districts, in the name of the districts, and by the district superintendent or the county high school principal. Such contract shall be for a term of not more than three (3) years and, after the second successive contract, the contract shall be deemed to be renewed for a further term of one (1) year from year to year thereafter unless the trustees shall, by resolution passed by a majority vote of its membership, resolve to terminate the services of the district superintendent or the county high school principal at the expiration of his existing contract. The trustees shall take such termination action and notify the district superintendent or the county high school principal of their intent to terminate his services at the expiration of his current contract not later than the first day of February of the last year of such contract.

Contract authorized by resolution.

Term-3 year limitation.

Renewal.

Termination notice.

Whenever a joint board of trustees employs a person as the district superintendent, the elementary district

HeinOnline -- 1971 vol. I 99 1971

Prorata compensation.

and the county high school shall prorate the compensation provided by the contract of employment on the basis of the number of teachers employed by each district.

Discharge for invalid certificate.

At any time the class 3 teacher certification or the endorsement of the certificate of a district superintendent or a county high school principal that qualifies such person to hold such position becomes invalid, the trustees of the district or the joint board of trustees shall discharge such person as the district superintendent or county high school principal regardless of the unexpired term of his contract. The trustees shall not compensate him under the terms of his contract for any services rendered subsequent to the date of the invalidation of his teacher certificate.

Conflict of activities.

No district superintendent or county high school principal shall engage in any work or activity which the trustees may deem to be in conflict with his duties and employment as the district superintendent or county high school principal.

Duties of district superintendent.

Section 94. Section 75-6113. **Duties of district superintendent or county high school principal.** The district superintendent or county high school principal shall be the executive officer of the trustees and, subject to the

General supervision of schools.

direction and control of the trustees, he shall: (1) have general supervision of all schools of the district and the personnel employed by the district;

Policies.

(2) implement and administer the policies of the trustees of the district;

Instruction.

(3) develop and recommend courses of instruction to the trustees for their consideration and approval in accordance with the provisions of sections 75-7503 and 75-7504;

Textbooks.

(4) select all textbooks and submit such selections to the trustees for their approval in accordance with the provisions of section 75-7603;

Other books.

(5) select all reference and library books and submit such selections to the trustees for their approval in accordance with provisions of section 75-7519;

Pupils.

(6) have general supervision of all pupils of the district, and shall enforce the compulsory attendance provisions of this title, and shall have the authority to suspend

HeinOnline -- 1971 vol. I 100 1971

for good cause any pupil of the district until the trustees may consider such suspension;

(7) report the cumulative pupil attendance and pupil absence of the district and any other pupil information required by the report form prescribed by the superintendent of public instruction to the county superintendent or county superintendents when reporting for a joint district, immediately after the conclusion of the school instructional year and before the tenth (10th) day of July; and Reports.

(8) perform any other duties in connection with the district as the trustees may prescribe. Other duties.

Section 95. Section 75-6114. **Duties of principal.** Whenever the trustees of a district employ and appoint a school principal but do not employ and appoint a district superintendent, such principal shall perform the duties of a district superintendent as prescribed in subsections (4), (5), (6), (7), and (8) of section 75-6113, and shall have general supervision of such school and the personnel assigned to such school. Duties of principal.

Section 96. Section 75-6201. **Definitions.** As used in this title, unless the context clearly indicates otherwise: Definitions.

(1) "Retirement system" means the Teacher's Retirement System of the State of Montana provided for in section 75-6202. "Retirement system."

(2) "Retirement board" means the retirement system's governing board provided by section 75-6203. "Retirement board."

(3) "Employer" means the State of Montana, trustees of any district, or other agency or subdivision of the state which employs a person who is designated a member of the retirement system. "Employer."

(4) "Member" means any person who has an individual account in the annuity savings fund; an active member is any person included under the provisions of section 75-6209; an inactive member is any person included under the provisions of section 75-6210. "Member."

(5) "Beneficiary" means any person in receipt of a pension, annuity, a retirement allowance, or other benefit as provided by the retirement system. "Beneficiary."

(6) "Service" means the performance of such instructional duties or related activities as would entitle the per- "Service."

HeinOnline -- 1971 vol. I 101 1971

son to active membership in the retirement system under the provisions of section 75-6209.

"Prior service." (7) "Prior Service" means employment of the same nature as service defined in subsection (6) of this section but rendered before September 1, 1937.

"Credible service." (8) "Credible (sic) service" is that service defined by section 75-6212.

"Regular interest." (9) "Regular interest" means interest at four per cent (4%) per annum compounded annually, or at such other rate as may be set by the retirement board in accordance with subsection (2) of section 75-6206.

"Accumulated contributions." (10) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to his individual account in the annuity savings fund, together with interest. Regular interest shall be computed and allowed to provide a benefit at the time of retirement.

"Earnable compensation." (11) "Earnable compensation" means the full rate of the compensation, pay or salary that would be payable to a member if he worked the full normal working time. In cases where compensation includes maintenance, the retirement board shall fix the value of that part of the compensation not paid in money.

"Average final compensation." (12) "Average final compensation" means the average of the earnable compensation of any three (3) consecutive years on which the five per cent (5%) contribution has been made by the member.

"Annuity." (13) "Annuity" means the payments made to a beneficiary for life which are derived from a member's accumulated contributions. All annuities shall be paid in equal monthly installments. The retirement board may make an annual payment to the beneficiaries of the difference between the rate of interest used in calculating the benefit from the annuity reserve fund and the interest earned on investments.

"Pension." (14) "Pension" means the payments made to a beneficiary for life which are paid into the pension fund derived from money accumulated by employers. All pensions shall be paid in equal monthly installments.

"Retirement allowance." (15) "Retirement allowance" means the annuity plus the pension.

HeinOnline -- 1971 vol. I 102 1971

(16) "Annuity reserve" means the present value of all payments to be made on account of a member's annuity and computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest. "Annuity reserve."

(17) "Pension reserve" means the present value of all payments to be made on account of a pension and computed on the basis of such mortality tables as shall be adopted by the retirement board with regular interest. "Pension reserve."

(18) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest. "Actuarial equivalent."

(19) "Former retirement system" means the retirement system established under sections 1113 to 1132 inclusive, of the Revised Codes of Montana, 1935. "Former retirement system."

Section 97. Section 75-6202. **Retirement system.** The state teachers' retirement system created under the provisions of chapter 87, Laws of 1937 is hereby recognized as the state teachers' retirement system of the State of Montana and no provisions of this act shall affect or impair the validity of any action taken by its governing board or the rights of any person arising under the provisions of chapter 87, Laws of 1937 or any subsequent amendment thereto. Such state teachers' retirement system shall be known as "The Teachers' Retirement System of the State of Montana" and in that name shall transact all business of the retirement system, invest its funds, hold its assets in trust, and have such powers and privileges of a corporation that may be necessary to carry into effect the provisions of this title. The teachers' retirement system of the state of Montana.

Section 98. Section 75-6203. **Retirement board.** The governing board of the Teachers' Retirement System of the State of Montana shall be: (1) the superintendent of public instruction; Composition of governing board.

(2) two (2) persons appointed from the teaching profession who are members of the retirement system; and

(3) two (2) persons appointed as representatives of the public.

Each appointed member of the governing board shall be

HeinOnline -- 1971 vol. I 103 1971

4 year terms. appointed by the governor to serve a term of four (4) years and until his successor has been appointed and qualified. When a vacancy occurs in the position of an appointed member of the governing board, the governor shall appoint a person to serve the unexpired term for such position.

Attorney general—legal advisor. The attorney general shall be the legal advisor of the governing board.

Oath. Each appointed member of the governing board shall take and subscribe to the oath prescribed by section 1 of article XIX of the constitution of the State of Montana, and such oath shall be filed in the office of the secretary of state.

Quorum. A majority of the members of the governing board shall constitute a quorum for the transaction of any business.

Section 99. Section 75-6204. **Per diem and expenses.** The members of the retirement board shall serve without direct or indirect compensation except that each appointed member shall receive twenty dollars ($20) per day and his necessary and actual expenses incurred for each day in attendance at the meetings of such board or in the execution of his duties as a member of the retirement board. Any appointed member's per diem reimbursement for any fiscal year shall not be more than three hundred dollars ($300). All per diem and expenses paid under the provisions of this section shall be paid from the expense fund of the retirement system.

$20.00 per day and expenses.

Limitation $300.00 per fiscal year.

Expense fund.

Section 100. Section 75-6205. **Powers and duties.** The retirement board shall have the power and it shall be its duty to administer and operate the retirement system within the limitations prescribed by this title. To this end, it shall be the duty of the retirement board to: (1) establish rules and regulations necessary for the proper administration and operation of the retirement system;

Authority to administer.

Duties.

Rules.

Chairman. (2) elect a chairman from its membership;

Secretary. (3) appoint a secretary who may be one (1) of its members;

Employment of personnel. (4) employ technical or administrative employees who are necessary for the transaction of the business of the retirement system;

HeinOnline -- 1971 vol. I 104 1971

(5) approve or disapprove all expenditures necessary for the proper operation of the retirement system; Expenditures.

(6) keep a record of all its proceedings which shall be open to public inspection; Records.

(7) publish a biennial report by the first day of January of each year the legislative assembly meets that shall report in detail the fiscal transactions for the two (2) fiscal years immediately preceding the report due date, the amount of the accumulated cash and securities of the retirement system and the last fiscal year balance sheet showing the assets and liabilities of the retirement system, and submit such biennial report to the governor and furnish copies to the legislative assembly; Biennial report.

(8) when the retirement board deems it necessary, designate a medical board to be composed of three physicians, who are not eligible to participate in the retirement system to investigate and report to the retirement board on all medical matters related to the administration of the retirement system; Medical board.

(9) keep in convenient form that data which is necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the retirement system; Actuarial data.

(10) designate an actuary to assist the retirement board with the technical actuarial aspects of the operation of the retirement system, which shall include establishing mortality and service tables and making an actuarial investigation at least once every five (5) years into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system; Actuary.

(11) prepare an annual valuation of the assets and liabilities of the retirement system; Annual valuation.

(12) determine the eligibility of a person to become a member of the retirement system in accordance with the provisions of section 75-6209; Eligibility.

(13) prescribe a form for membership application which will provide adequate and necessary information for the proper operation of the retirement system; Forms.

(14) adopt policies for the determination of creditable service in the retirement system implementing the following guidelines: Determination of creditable service.

HeinOnline -- 1971 vol. I 105 1971

(a) One (1) year's creditable service shall be awarded for each year of full-time service, outside of vacation periods, but no more than one (1) year's creditable service shall be awarded for service during the same school fiscal year.

(b) A proportion of a year's creditable service shall be allowed for part-time service. An equitable proration of a year's creditable service shall be awarded for part-time service.

(c) Not more than one (1) month's creditable service shall be awarded for one (1) or more continuous months of absence without pay.

Grant benefits. (15) grant retirement, disability, and other benefits under the provisions of section 75-6208;

Rates of interest. (16) annually determine the rate of regular interest as prescribed in section 75-6206;

Funds. (17) establish and maintain the funds of the retirement system in accordance with the provisions of section 75-6207; and

Other duties. (18) perform such other duties and functions as are required to properly administer and operate the retirement system.

Section 101. Section 75-6206. **Financial administration of monies.** The retirement board shall be the trustees of all monies collected for the retirement system and as such trustees they shall provide for the financial administration of the monies in the following manner: (1) The monies shall be invested and reinvested by the state board of land commissioners.

Trustees of all monies.

Investments.

Rates of interest. (2) The retirement board annually shall establish the rate of regular interest on the basis of the interest earnings of the retirement system for the preceding year and of the probable earnings to be made, in the judgment of the board, during the immediate future.

Division among funds. (3) The retirement board annually shall divide among the several funds of the retirement system an amount equal to the average balance of such funds during the preceding fiscal year multiplied by the rate of regular interest. In accordance with the provisions of subsection (3) (c) of section 75-6207, the amount to be credited to

HeinOnline -- 1971 vol. I 106 1971

each fund shall be allocated from the interest and other earnings on the monies of the retirement system actually realized during the preceding fiscal year, less the amount allocated to the expense fund under the provisions of subsection (5) (b) of section 75-6207.

State treasurer is custodian.

(4) The state treasurer is the custodian of the collected retirement system monies and of the securities in which said monies are invested. All expenditures from such monies shall be made only upon claims signed by two (2) persons designated by the retirement board. A properly attested copy of a resolution of the retirement board designating such persons and bearing on its face specimen signatures of each person shall be filed with the state controller as his authority for approving such claims.

Conflicts of interest forbidden.

(5) Except as herein provided no member of the retirement board nor any of its employees shall have an interest, direct or indirect, in the gains or profits of any investment of monies of the retirement system. No member of the retirement board nor any of its employees shall directly or indirectly for himself or as an agent in any manner use the monies or deposits of the retirement system except to make such current and necessary expenditures as are authorized by the retirement board. No member of the retirement board nor any of its employees shall become an endorser or surety or in any manner an obligor for monies loaned by or borrowed from the retirement system.

Transfer of monies.

(6) The retirement board may in its discretion transfer the amount in the annuity savings account of an inactive member to the pension accumulation fund if the account has been dormant for a period of seven (7) years. No right of the member shall be jeopardized by such transfer and the amount shall be transferred back to the member's annuity savings account upon his request.

Accounts.

(7) All the funds established by section 75-6207, except the expense fund, shall be accounts in the agency fund of the treasury fund structure of the state. The expense fund shall be an account in the earmarked revenue fund of the same treasury fund structure.

Section 102. Section 75-6207. **Method of financing.** The retirement board shall establish and maintain the following funds in which all of the assets of the retire-

Board shall establish funds.

HeinOnline -- 1971 vol. I 107 1971

ment system shall be credited according to the purpose for which the assets are held. (1) **Annuity savings fund.** The annuity savings fund shall be a fund in which the contributions from the members to provide for their annuities shall be accumulated in individual accounts for each member. Contributions to and payments from the annuity savings fund shall be made in the following manner.

Annuity savings fund.

Pay roll deductions.

(a) Each employer shall deduct from the compensation of each active member on each and every payroll of such member for each and every payroll period subsequent to the date on which such member became a member an amount equal to five per cent (5%) of such member's earnable compensation, but no employer shall make any deductions for annuity purposes from the compensation of a member who has attained the age of sixty (60) and rendered thirty-five (35) years of creditable service if such member elects not to contribute.

5% limitations.

Determination of amount earnable.

(b) In determining the amount earnable by an active member in a payroll period, the retirement board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not an active member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth (1/10) of one per cent (1%) of the annual compensation upon the basis of which said deduction is to be made.

Modified deuctions.

Implied consent.

(c) Such deductions shall be made notwithstanding that the minimum compensation provided by law for a member may be reduced thereby. Every member shall be deemed to consent and agree to the deductions prescribed by this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by the retirement system.

(d) In addition to the contributions deducted from compensation and subject to the approval of the retire-

HeinOnline -- 1971 vol. I 108 1971

ment board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions, or any part thereof, which he had previously withdrawn; or any member may deposit therein by a single payment or by an increased rate of contribution amounts for the purchase of an additional annuity. Such additional amounts so deposited shall become a part of his accumulated contributions. In the case of disability retirement, they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his retirement allowance. The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death shall be paid from the annuity savings fund, and an amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid shall be transferred to the pension accumulation fund. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

Member may deposit contributions.

Disability retirement.

Payment.

Transfer of monies to other funds.

(2) **Annuity reserve fund.** The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

Annuity reserve fund.

(3) **Pension accumulation fund.** The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

Pension accumulation fund.

(a) Each employer shall pay into the pension accumulation fund an amount equal to four and one-half per cent (4½%) of the earnable compensation of each member employed during the whole or a part of the preced-

Employer contributions— 4½%.

HeinOnline -- 1971 vol. I 109 1971

4%.

ing payroll period. Such employer's contribution shall be four per cent (4%) for each payroll period after the first day of July, nineteen hundred and seventy-nine (1979).

Trustees shall budget.

(b) If the employer is a district or community college district, the trustees shall budget and pay for the employer's contribution under the provisions of section 75-7204.

Appropriations.

(c) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system or the Montana state deaf and blind school, the legislative assembly shall appropriate to each employer an adequate amount to allow the payment of the employer's contribution.

County commissioners shall budget.

(d) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption of a county budget and for payments under such budget.

Earnings.

(e) All interest and other earnings realized on the monies of the retirement system shall be credited to the pension accumulation fund and the amounts required to allow regular interest on the annuity savings fund, the annuity reserve fund and the pension reserve fund shall be transferred to the respective funds from the pension accumulation fund.

Payment of pensions.

(f) All pensions and benefits in lieu thereof, including pensions payable under section 75-6218, with the exception of those payable to members not entitled to prior service credit shall be paid from the pension accumulation fund.

Transfer of surplus deficit.

(g) The retirement board may in its discretion transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund or the pension reserve fund, as shown by actuarial valuation, and also such expenses as hereinafter provided.

Transfer to pension reserve.

(h) Upon the retirement of a member who does not have a prior service certificate, the actuarial equivalent of his pension shall be transferred from the pension accumulation fund to the pension reserve fund.

Pension reserve fund.

(4) **Pension reserve fund.** The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted to members not entitled to prior service

HeinOnline -- 1971 vol. I 110 1971

credit and from which shall be paid such pensions and benefits in lieu thereof. Should a member not entitled to prior service credit who has been retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the pension reserve held on account of his pension shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of such a disability beneficiary be reduced as a result of an increase in his earning capacity the amount of annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

Transfer to pension accumulation fund.

(5) **Expense fund.** The expense fund shall be the fund to which shall be credited all monies contributed for the administrative expenses of the retirement system and from which the expenses of administration of the retirement system shall be paid exclusive of amounts payable as retirement allowances or other benefits. The retirement board shall determine annually the amount required for the expense fund to defray the administrative expense in the ensuing fiscal year. Contributions shall be made to the expense fund as follows:

Expense fund.

(a) There shall be deducted from the compensation of each member by his employer the sum of one dollar for each year, in addition to all other deductions herein prescribed. The sum of such administrative assessments shall be paid to the retirement board by each employer in the same manner provided for the payment of the employee contributions. The administrative assessments shall be credited to the expense fund by the retirement board.

Payroll deduction—$1.00 per year to expense fund.

(b) That portion of the expense fund not financed under subsection (a) shall be paid from interest and other earnings realized on the monies of the retirement system.

Section 103. Section 75-6208. **Benefits.** The retirement, disability and other benefits of the retirement system shall be granted on the basis of the following provisions: (1) Superannuation member retirement;

(a) Any member who has completed five (5) years of creditable service, the last five (5) years of which shall have been in this state, and who has attained the age of sixty (60) may retire from service, if he files with the

Retirement.

5 years service—age 60.

HeinOnline -- 1971 vol. I 111 1971

Application. retirement board his written application setting forth the fact of his retirement.

Age 70. (b) Any member in service who has attained the age of seventy (70) years during any school year shall be retired on the first day of September following his seventieth birthday, except that this provision shall not apply to teachers in the Montana university system who may be employed beyond the age of seventy (70) upon the recommendation of the president of the employing unit to the board of regents. Members over seventy (70) years of age shall not: (1) be allowed creditable service for services rendered after the end of the school year in which the age of seventy (70) is attained, (2) contribute to the retirement system after the end of such school year, and (3) have the compensation received after the end of such school year used in computing average final salary. Initial employment of teachers in the Montana university system beyond the age of seventy (70) may be made upon the recommendation of the president of the employing unit and the approval of the board of regents but such employees shall be denied membership in the retirement system.

Exception.

Employment beyond age 70.

Employment—retired members. (c) Any retired member may be employed as a teacher in Montana and may earn an amount not to exceed one-fourth (¼) of his average final compensation without loss of retirement benefits.

Retirement allowances. (2) Allowance for superannuation retirement. Upon superannuation retirement a member shall receive a retirement allowance based upon the following provisions:

Annuity. (a) He shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

Pension. (b) He also shall receive a pension of one-quarter (¼) of his average final compensation provided his creditable service is at least thirty-five (35) years, otherwise, a pension of one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of his creditable service.

Additional pension. (c) If he has a prior service certificate in full force and effect, he also shall receive an additional pension which shall be equal to one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

HeinOnline -- 1971 vol. I 112 1971

Minimum allowances.

(d) The minimum annual retirement allowance for a member who has completed thirty (30) years service and who retired after September 1, 1937, and before June 30, 1948, shall be fifteen hundred dollars ($1,500) and the minimum retirement allowance for a member who retired after September 1, 1937, and before June 30, 1948, but whose service is less than thirty (30) years shall receive a minimum retirement allowance based on the proportionate amount of fifteen hundred dollars ($1,500) that his service bears to thirty (30) years of service.

$1,500.00 per annum.

(e) The minimum annual retirement allowance for a member who has completed thirty-five (35) years of service and who retires after June 30, 1949, shall be fifteen hundred dollars ($1,500).

Increase 2%.

(f) Each member receiving a superannuation allowance on June 30, 1967, shall be entitled to an increase in his original retirement allowance of two per cent (2%) for each year he has been retired between July 1, 1937, and June 30, 1967, but if he is eligible under subsections (2)(d) or (2)(e) above and the benefit thereunder is larger than the increased retirement allowance prescribed herein, this provision shall not apply.

Refund on death.

(g) In the event a member retired on a superannuation allowance has not received more than three (3) retirement payments prior to death, the beneficiary of the member shall receive a refund of the difference between the total retirement allowance paid and the amount of the accumulated contributions.

(3) Disability member retirement:

Application for disability retirement.

(a) Upon the application of an active member or of his employer, any active member who has five (5) or more years of creditable service may be retired by the retirement board not less than thirty (30) and not more than ninety (90) days after the date of filing such application on a disability retirement allowance. Before any member shall be eligible for a disability retirement, the medical board of the retirement system shall certify that he is mentally or physically incapacitated for the further performance of his duties, that such incapacity is likely to be permanent and that he should be retired.

Certification by medical board.

(b) If the applicant for disability retirement was prevented because of the disability from making application

HeinOnline -- 1971 vol. I 113 1971

at the time of the commencement of his disability, the retirement board shall grant the disability retirement upon the proper application for disability retirement allowance and make payments retroactive to the thirtieth day after the date of commencement of his disability.

Retroactive payment.

(c) Re-examination of beneficiaries retired on account of disability. Once each year during the first five (5) years following the retirement of a member on disability retirement allowance, and once in every three (3) year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has has not yet attained the age of sixty (60) to undergo a medical examination by the medical board or a physician or physicians designated by the medical board. The examination shall be made at the place of residence of the beneficiary or other place mutually agreed upon. Should any disability beneficary who has not yet attained the age of sixty (60) refuse to submit to at least one (1) medical examination in any year by the medical board or its representative, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his disability pension may be revoked by the retirement board.

Annual re-examinations.

Refusal.

Allowance discontinued.

(d) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be changed later, the amount of his pension may be further modified but the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

Certification of gainful employment.

Reduced pension.

Further modification.

Restored to service —not a member.

HeinOnline -- 1971 vol. I 114 1971

(e) Should a disability beneficiary under age sixty (60) be restored to active service at a compensation not less than his average final compensation, his retirement allowance shall cease, and he shall again become an active member of the retirement system. Any prior service certificate on the basis of which his service was computed at the time of his disability retirement shall be restored to full force and effect an addition upon his subsequent retirement, he shall be credited with all his subsequent service as a member. Should he be restored to active service on or after the attainment of the age of fifty-five (55) years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the period of his previous retirement nor the sum of the pension which he was receiving immdeiately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new member.

Restored to service under age 60.

Active member.

Computation of benefits.

Age 55 or older.

(4) Allowance for disability retirement. Upon retirement for disability, a member shall receive a superannuation allowance prescribed under subsection (2) above if he is eligible, otherwise he shall receive a disability retirement allowance which shall consist of:

Disability retirement allowance.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement.

Annuity.

(b) A pension which, together with his annuity, shall provide a total retirement allowance equal to ninety per cent (90%) of one seventieth (1/70) of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter (¼) of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter (¼) of his average final compensation, provided, however, that no such allowance shall exceed ninety per cent (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for superannuation retirement.

Pension.

(c) In the event payments made to a person retired because of disability do not equal the amount of his accumu-

HeinOnline -- 1971 vol. I 115 1971

Difference paid to beneficiary.

lated contributions prior to his death, the difference between the total retirement allowance paid and the amount of the accumulated contributions of the member shall be paid to the beneficary.

Inactive member may withdraw contributions.

(5) Withdrawal of accumulated contributions. Any inactive member electing to do so or any person whose membership terminates shall withdraw his accumulated contributions to his annuity account in the retirement system in accordance with the following provisions:

Inactive member may elect not to withdraw.

(a) An inactive member under the provisions of subsections (1) or (3) of section 75-6210 may elect, without right of revocation to withdraw his accumulated contributions, and if he does not withdraw his accumulated contributions he shall thereafter remain an inactive member of the retirement system with the right to qualify for the benefits of the retirement system;

Benefits.

Withdrawal on failure to return.

(b) Upon recovery from a disabling illness or separation from the armed forces, any person qualifying as an inactive member under the provisions of subsection (2) of section 75-6210 shall withdraw his accumulated contributions unless he returns to active membership.

Withdrawal on termination.

(c) Any person whose membership terminates under the provisions of subsection (4) of section 75-6211 shall withdraw his accumulated contributions.

Payment.

Any person withdrawing his accumulated contributions shall be paid the amount he contributed, less any unpaid membership fees. The accumulated interest credited to his annuity account shall be transferred to the pension accumulation fund.

Transfer of interest.

Allowances on death.

(6) Allowances for death of member.

Payable to estate or designated person.

(a) Should a member die before retirement the amount of the member's accumulated contributions shall be paid to his estate or such person as he may have designated in the manner prescribed by the retirement board which shall be filed with the board prior to the member's death.

Beneficiary may elect annuity.

(b) In lieu of benefits provided in (a) above, if the deceased member had qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to receive a monthly life annuity. The monthly life annuity shall be based on the beneficiary's attained age at the time of the deceased member's

HeinOnline -- 1971 vol. I 116 1971

death and calculated from an amount equal to the required reserve for the deceased member's creditable service, together with the deceased member's accumulated contributions.

(c) If the deceased member had five (5) or more years of creditable service and was an active member in the State of Montana within one (1) year prior to his death, the sum of fifty dollars ($50) per month shall be paid to each minor child of the deceased member until such child reaches his eighteenth (18th) birthday.

$50.00 per month to each child under age 18.

(7) Optional allowances. With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement or disability allowance payable throughout life as hereinabove provided, or he may on retirement elect to receive the actuarial equivalent at that time of his retirement or disability allowance in a lesser retirement allowance payable throughout life with the provisions that:

Optional allowances.

Member's options.

(a) Option 1. If he dies before he has received in payment of his annuity the amount of his accumulated contributions as they were at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board; or

On death payment of balance of accumulated contributions.

(b) Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

Retirement allowance paid to named beneficiary for life.

(c) Option 3. Upon his death, one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

One-half paid for life of named beneficiary.

(d) Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of

Other benefits.

HeinOnline -- 1971 vol. I 117 1971

his retirement, except such other benefit or benefits, together with the lesser retirement allowance shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board.

Active members of retirement system—eligibility.

Section 104. Section 75-6209. **Active membership.** Any of the following persons shall be active members of the retirement system unless otherwise provided by this title, except for those persons who became eligible for membership on the first day of September, nineteen hundred and thirty-seven (1937) or on the first day of September, nineteen hundred and thirty-nine (1939) and who elected not to be a member under the provisions of the law at that time: (1) Any person who is a teacher, principal or district superintendent as defined under the provisions of section 75-6101.

(2) Any person who is an administrative officer or a member of the instructional or scientific staff of a unit of the Montana university system.

(3) Any person employed in an instructional services capacity by the office of the superintendent of public instruction, the office of a county superintendent, a public institution of the State of Montana, the Montana state deaf and blind school, or a district.

(4) Any person who shall have elected not to become a member of the retirement system and is re-entering service in a capacity prescribed by subsections (1), (2) and (3) above.

(5) Any person who shall have elected not to become a member of the retirement system, who has been continuously employed in a capacity prescribed by subsection (1), (2) or (3) above since the time of such election and who may thereafter elect to become a member of the retirement system.

Employment.

Any person who is designated a member by this section shall be employed full-time, outside of vacation periods, in the capacity prescribed for his eligibility; except that when a person is employed less than full-time, the retirement board may allow such person to become a member of the retirement system. The compensation for the creditable service of any person who is designated a member by this section shall be totally paid by an employer as defined

Compensation.

HeinOnline -- 1971 vol. I 118 1971

herein, except that when this requirement is not satisfied, the retirement board may allow such a person to become a member of the retirement system. At any time a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine his eligibility for membership.

Inactive membership.

Section 105. Section 75-6210. **Inactive membership.** Any person's active membership in the retirement system shall terminate, but he shall be an inactive member when: (1) he ceases to be employed in a capacity that allows his membership and he has five (5) or more years of creditable service in the retirement system;

(2) he ceases to be employed in a capacity that allows his membership and he has less than five (5) years of creditable service in the retirement system, but his loss of capacity to be a member was caused by a personal illness determined by the retirement board to be a disability or was caused by service in the armed forces of the United States which includes the army, navy, marine corps, airforce and coast guard, or by service in the American Red Cross or merchant marine during time of war; or

(3) he has five (5) or more years creditable service and he becomes a member of any other retirement or pension system supported wholly or in part by monies of another government agency, except the federal social security retirement system, and the membership in the other retirement system would allow credit for the same employment service in two retirement systems. However, no person shall be excluded from active membership solely because he is receiving or is eligible to receive retirement benefits from another retirement system.

Membership termination.

Section 106. Section 75-6211. **Membership termination** The active or inactive membership in the retirement system of any person shall terminate when: (1) he retires on a retirement allowance of the retirement system;

(2) he dies;

(3) he withdraws his accumulated contribution to the retirement system under the provisions of subsection (5) of section 75-6208; or

(4) he ceases to be employed in a capacity that allows his membership, he has less than five (5) years of credit-

HeinOnline -- 1971 vol. I 119 1971

able service in the retirement system, and he cannot qualify under the provisions of subsection (2) of section 75-6210.

Application for membership.

Section 107. Section 75-6212. **Membership application and creditable service.** Whenever a person becomes eligible for membership in the retirement system, he shall

Form.

apply for such membership on the application form prescribed by the retirement board. The creditable service of a member shall begin on the receipt of the membership application by the retirement board and shall accumulate to the member's credit on the basis of the retirement board's policy governing creditable service.

Creditable service defined.

The creditable service of any member shall include the following: (1) each year of service of a member for which contributions to the retirement system were deducted from his compensation under the provisions of chapter 87, Laws of 1937, chapter 215, Laws of 1939, this act, and their subsequent amendments, except that no credit shall be awarded for those years of service for which the contributions have been withdrawn and not replaced, plus

(2) any out-of-state employment service awarded by the retirement board under the provisions of section 75-6213; plus

(3) any service awarded by a prior service certificate issued under the provisions of chapter 87, Laws of 1937, chapter 215, Laws of 1939 and their subsequent amendments, or under the provisions of section 75-6213.

Retirement board shall establish.

The creditable service established by the retirement board under the provisions of this section shall be final and conclusive for the purposes of the retirement system unless, at any time, the retirement board discovers an error or fraud in the establishment of the creditable service, in which case the retirement board shall reestablish the creditable service.

Out-of-state service.

Section 108. Section 75-6213. **Creditable service for out-of-state employment and before September, 1937.** Any person applying for membership also may apply for creditable service in the retirement system for out-of-state employment service that would have been acceptable under the provisions of this title if such service were per-

HeinOnline -- 1971 vol. I 120 1971

formed in the state of Montana. The person shall be awarded creditable service, conditional upon his completing five (5) years of active membership in Montana, for the number of years the retirement board determines to be creditable service but for not more than five (5) years, if he contributes to the retirement system an amount equal to five per cent (5%) of his first year's salary earned in Montana for each year of creditable service. The contributions may be a lump sum payment or in installments as agreed between the person and the retirement board.

Completion of 5 years active membership.

Contribution 5% of first year salary.

Whenever a member is retiring with at least ten (10) years of creditable service and he has been an active member for at least five consecutive school fiscal years, he may request creditable service for any employment service he rendered prior to the first day of September, nineteen hundred and thirty-seven (1937) for which he has not received a prior service certificate. In order to receive such creditable service, he shall apply for it and provide certification of such service. The retirement board shall determine the amount of creditable service to be awarded, if any, and issue a prior service certificate.

Request for creditable service.

Section 109. Section 75-6214. **Duties of employer.** It shall be the duty of each employer to: (1) deduct the contribution of each member employed by him at the rate prescribed by subsection (1) of section 75-6207 from each salary payment for each payroll period, and transmit the contribution each month to the secretary of the retirement board;

Duties of employer. Payroll deductions.

(2) pay to the secretary of the retirement board the employer's contribution prescribed by subsection (3) of section 75-6207 at the time that the employee contributions are transmitted to the secretary of the retirement board;

Employer's contribution.

(3) keep records and, as required by the retirement board, furnish information to the retirement board that is required in the discharge of the retirement board's duties;

Records.

(4) upon the employment of any person who is required to become a member of the retirement system, inform him of his rights and obligations related to the retirement system. Each person accepting such employ-

Duty to inform employee.

HeinOnline -- 1971 vol. I 121 1971

ment shall be deemed to consent to membership and to the withholding of the contributions from his compensation;

Certify names.

(5) at the request of the retirement board, certify the names of all persons who are eligible for membership or are members of the retirement board; and

Notice to board.

(6) notify the retirement board of the employment of a person eligible for membership and forward his membership application to the retirement board.

Exemptions.

Section 110. Section 75-6215. **Exemption from taxation, execution and assignment.** The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are hereby exempted from any state, county or municipal tax of the state of Montana, and shall not be subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process whatsoever and shall be unassignable except as specifically provided.

Obligations of state of Montana.

Section 111. Section 75-6216. **Guarantee by state.** Regular interest charges payable, the creation and maintenance of reserves in the pension accumulation fund and the maintenance of annuity reserves in the annuity reserve fund and of pension reserves in the pension reserve fund as provided for in this title and the payment of all annuities, pensions, refunds, and other benefits granted under the retirement system are hereby made obligations of the state of Montana.

Penalties for fraud.

Section 112. Section 75-6217. **Protection against fraud.** Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor and shall be punishable therefor under the laws of the state of Montana. Should any change or error in records result in any member or beneficiary receiving from the retirement more or less than he would have been entitled to receive had the records been correct, then on discovery of any such error, the retirement board shall correct such error, and as far as practicable, shall adjust the payments in such a manner that

Correction of errors.

HeinOnline -- 1971 vol. I 122 1971

the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Section 113. Section 75-6218. **Discontinuance of former retirement system.** On and after the first day of September, 1937, no further retirement shall be made under the provisions of the law governing the former retirement system and no benefits shall be paid either from the public school teachers' retirement salary fund, or from the public school teachers' permanent fund as established under such law, except as herein described.

Discontinuance under former system.

All assets held in the funds maintained under said law on the first day of September, 1937, shall be transferred to the pension accumulation fund of the retirement system to be held in trust and invested as a trust fund and disbursed only in payment of benefits to those teachers on whose account they were contributed. The retirement salaries of all persons entitled to retirement salaries from the former retirement system on September 1, 1937, shall be paid beginning as of September 1, 1937, from such trust fund.

Transfer of assets.

Any person who, having retired upon a retirement allowance under the former retirement system, shall have retired after having served as a teacher for at least twenty-five (25) school years, fifteen (15) of which, including the last ten (10) years, shall have been in the schools of this state, and who shall elect under this section to receive his interest in said public school teachers' retirement salary fund and said public school teachers' permanent fund in the form of an annuity, shall be entitled, while he shall remain retired, to receive and be paid from the said pension accumulation fund an annual allowance which, together with his said annuity, shall equal the sum of nine hundred dollars ($900). Any other person retired upon such allowance who shall elect to receive his interest in said funds in the form of an annuity shall, upon reaching the age of sixty (60) years, be entitled, while he shall remain retired, to receive and be paid from the said pension accumulation fund an annual allowance, which together with his said annuity shall equal a sum which shall be that proportion of nine hundred dollars ($900) which the number of school years which he shall have served as a teacher, and credited under the former retirement system bears to twenty-five (25).

Retired teacher under former system.

$900.00 per annum.

Other persons.

Age 60.

Proportion of $900.00.

HeinOnline -- 1971 vol. I 123 1971

"Pupil" defined.

Section 114. Section 75-6301. **Definition.** As used in this title, unless the context clearly indicates otherwise, "pupil" means any child who is six (6) years of age or older but has not yet reached his twenty-first birthday and who is enrolled in a school established and maintained under the laws of the state of Montana at public expense.

School admittance.

Age.

Section 115. Section 75-6302. **Admittance of child to school.** The trustees shall assign and admit any child to a school in the district, when the child is: (1) six (6) years of age or older but has not yet reached his twenty-first birthday;

Resident.

(2) a resident of the district; and

Qualified.

(3) otherwise qualified under the provisions of this title to be admitted to such school.

First grade age requirements.

In complying with subsection (1) above, the trustees shall have the authority to establish reasonable age requirements for entry into the first grade so long as an otherwise qualified child is permitted to enter the first grade some time during his seventh year or earlier.

Nonresident child.

The trustees of any district shall have the authority to assign and admit any nonresident child to a school in the district under the tuition provisions of this title.

Compulsory enrollment.

Section 116. Section 75-6303. **Compulsory enrollment and excuses.** Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year and has not yet reached his sixteenth birthday, or of a child who has not completed the work of the eighth (8th) grade, shall cause the child to be instructed in the English language and in the subjects prescribed by section 75-7503 or section 75-7504, whichever is applicable. Such parent, guardian or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he establishes residence in the district unless: (1) the child is enrolled in a private institution which provides instruction in the subjects prescribed by section 75-7503 or section 75-7504, whichever is applicable, and in which the basic language taught is English;

Exceptions.

Private school.

HeinOnline -- 1971 vol. I 124 1971

(2) the child is enrolled in a school of another district or state under any of the tuition provisions of this title; Other school.

(3) the child is provided with supervised correspondence study or supervised home study under the transportation provisions of this title; or Home study.

(4) the child is excused from enrollment in a school of the district when it is shown that his bodily or mental condition does not permit his attendance and the child cannot be instructed under the special education provisions of this title. Excused for bodily or mental condition.

The excuse provided for in subsection (4), above, shall be issued by the district superintendent, or the county superintendent when there is no district superintendent employed by the district. Whenever an excuse is denied by the applicable official, an appeal of such decision may be made to the district court of the county within ten (10) days after the decision upon giving a bond in the amount set by the court to pay all costs of the appeal. The decision of the district court shall be final. Excuse issued. Appeal to district court.

Section 117. Section 75-6304. **Compulsory attendance and excuses.** Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year but has not yet reached his sixteenth birthday, or of a child who has not completed the work of the eighth grade, shall cause the child to attend the school in which he is enrolled for the school term and each school day therein prescribed by the trustees of the district unless: (1) the child has been excused under one of the conditions specified in section 75-6303; Compulsory attendance. Exceptions. Excused.

(2) the child is absent because of illness, bereavement or other reason prescribed by the policies of the trustees; or Illness.

(3) the child has been suspended or expelled under the provisions of section 75-6311. Suspension.

Section 118. Section 75-6305. **Attendance officer.** In order to enforce the compulsory attendance provisions of this title, each district shall have at least one person serving as an attendance officer according to the follow- Employment of attendance officer.

HeinOnline -- 1971 vol. I 125 1971

ing requirements: (1) districts of the first and second class shall employ and appoint one or more attendance officers;

(2) districts of the third class may employ and appoint an attendance officer, or may appoint a constable or other peace officer as an attendance officer; or

(3) the county superintendent shall be the attendance officer in third-class districts that do not appoint an attendance officer.

Powers and duties of attendance officer.

Section 119. Section 75-6306. **Attendance officer powers and duties.** The attendance officer of my district shall: (1) be vested with police powers, the authority to serve warrants and the authority to enter places of employment of children in order to enforce the compulsory attendance provisions of this title;

(2) take into custody any child subject to compulsory attendance who is not excused under the provisions of this title and conduct him to the school in which he is or should be enrolled;

(3) do whatever else is required to investigate and enforce the compulsory attendance provisions of this title and the pupil attendance policies of the trustees;

(4) institute proceedings against any parent, guardian, or other person violating the compulsory attendance provisions of this title;

(5) keep a record of his transactions for the inspection and information of the trustees and make reports in the manner and to whomever the trustees designate; and

(6) perform any other duties prescribed by the trustees to preserve the morals and secure good conduct of the pupils of the district.

Notice of truancy.

Section 120. Section 75-6307. **Truancy.** Whenever the attendance officer discovers a child truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction and has not been excused under the provisions of this title, he shall notify in writing the parent, guardian or other person responsible for the care of the child that the continued truancy or nonenrollment of his child shall

HeinOnline -- 1971 vol. I 126 1971

result in his prosecution under the provisions of this section. If the child is not enrolled and in attendance at a school or excused from school within two days after the receipt of the notice, the attendance officer shall file a complaint against such person in a court of competent jurisdiction. If convicted, such person shall be fined not less than five ($5) nor more than twenty dollars ($20). In the alternative, he may be required to give bond in the penal sum of one hundred dollars ($100), with sureties, conditioned upon his agreement to cause the enrollment of his child within two (2) days thereafter in a school providing the courses of instruction required by this title and to cause the child to attend that school for the remainder of the current school term. If a person refuses to pay a fine and costs or to give a bond as ordered by the court, he shall be imprisoned in the county jail for a term of not less than ten (10) days or more than thirty (30) days.

Complaint.

Penalties for conviction.

Bond.

Imprisonment.

Section 121. Section 75-6308. **Incapacitated and indigent child attendance.** In lieu of the provisions of section 75-6307 and when an attendance officer is satisfied that a pupil or a child subject to compulsory attendance is not able to attend school because he does not have the physical capacity or he is absolutely required to work at home or elsewhere in order to support himself or his family ,the attendance officer shall report the case to the authorities charged with the relief of the poor. It shall be the duty of such welfare authorities to offer such relief as will enable the child to attend school. If the parent, guardian, or other person who is responsible for the care of the child denies or neglects the assistance offered to enable the child to attend school, the child shall be committed to a state institution, at the discretion of the court.

Child not able to attend.

Report to welfare authorities.

Child may be committed.

Section 122. Section 75-6309. **Tribal agreement with district for Indian child compulsory attendance and other agreements.** It shall be the duty of the trustees of any district where an Indian child resides to require the child to attend school in the same manner as any other child residing in the district, unless it is prohibited by the laws or treaties affecting the Indian tribe of which such child is a member or the Indian reservation on which such child resides. When such a prohibition exists, the trustees of any district shall have the authority to

Compulsory attendance—Indian children.

Treaty.

HeinOnline -- 1971 vol. I 127 1971

accept from the tribal council or other governing body of the Indian tribe or the Indian reservation authorization to enforce the compulsory attendance provisions of this title and compel the school attendance of the Indian children belonging to the tribe or residing on the reservation.

Enforcement.

Trustees authority to contract.

The trustees of any district shall have the authority to enter into an agreement with the tribal council or other governing body of an Indian tribe or Indian reservation to perform any other functions prescribed by this title except as limited by the laws of the United States and its treaties with such Indian tribe.

Section 123. Section 75-6310. **Duties and sanctions.** Any pupil shall: (1) comply with the policies of the trustees and the rules and regulations of the school which he attends;

Duties of pupils.

(2) pursue the required course of instruction;

(3) submit to the authority of the teachers, principal and district superintendent of the district; and

(4) be subject to the control and authority of the teachers, principal and district superintendent while he is in school or on school premises, on his way to and from school, or during his intermission or recess.

Penalties for unruly behavior.

Any pupil who continually and willfully disobeys the provisions of this section, shows open defiance of the authority vested in school personnel by this section, defaces or damages any school building, school grounds, furniture, equipment, book belonging to the district or harms or threatens to harm another person or his property shall be liable for punishment, suspension or expulsion under the provisions of this title. When a pupil defaces or damages school property, as defined above, his parent or guardian shall be liable for the cost of repair or replacement upon the complaint of the teacher, principal, superintendent or any trustee and the proof of such damage.

Parents liable for damages.

Other sanctions.

In addition to the sanctions prescribed in this section, the trustees of a high school district may deny a high school pupil the honor of participating in the graduation exercise or exclude a high school pupil from participating in school activities. Such action shall not be taken

HeinOnline -- 1971 vol. I 128 1971

until the incident or infraction causing such consideration has been investigated and the trustees have determined that the high school pupil was involved in such incident or infraction.

Section 124. Section 75-6311. **Suspension and expulsion.** As provided in sections 75-6109 and 75-6113, any pupil may be suspended by a teacher, superintendent or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent or principal in suspending a pupil and to define the circumstances and procedures by which the trustees may expel a pupil. Expulsion shall be a disciplinary action available only to the trustees.

Suspension.

Trustees shall adopt policy.

Expulsion.

Section 125. Section 75-6312. **Secret organization prohibited.** It shall be unlawful for any pupil to participate in or be a member of any secret fraternity or other secret organization that is in any degree a school organization. It also shall be unlawful for any pupil or other person to solicit any pupil to join any such prohibited secret fraternity or other secret organization. Any person violating the provisions of this section shall be guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than five dollars ($5) or more than twenty-five dollars ($25) for each violation.

Secret organizations prohibited.

Penalties.

Section 126. Section 75-6313. **Elementary tuition with mandatory approval.** Any child may be enrolled in and attend an elementary school outside of the elementary district in which he resides when such elementary school is located: (1) in any other district of the county of his residence, (2) in a county adjoining his county of residence, or (3) in a district of another state that is adjacent to the county of his residence. When a parent or guardian of a child wishes to have his child attend a school under the provisions of this section, he shall apply to the county superintendent of the county of his residence before the first day of July of the school fiscal year for which he seeks approval except in those cases when substantial changes in circumstances occurred subsequently to justify later application. Such application shall be made on a tuition agreement form supplied by the county superintendent and shall be approved by (1) the trustees of the elementary district in which the child resides, (2) the trustees of the district where the child

Child may enroll outside elementary district of residence.

Application.

Tuition agreement form—approval.

HeinOnline -- 1971 vol. I 129 1971

wishes to attend school, and (3) the county superintendent of the child's residence before permission to enroll in and attend a school outside of the district under the provisions of this section shall be granted.

Mandatory approval of tuition applications.

In considering the approval of a tuition application, the tuition approval agents prescribed in this section shall approve such application for a resident child when: (1) the child resides less than three (3) miles from the school which he wishes to attend and more than three (3) miles from any school of his resident elementary district;

3 miles.

(2) the child resides more than three (3) miles from any school of his resident elementary district and such district does not provide transportation under the provisions of this title;

3 miles.

(3) the child resides more than three (3) miles from any school of his resident elementary district and the resident district does not provide transportation under the provisions of this title, and school bus transportation is furnished by the district operating the school which he wishes to attend;

Other child.

(4) the child is a member of a family who must send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located provided such child resides more than three (3) miles from an elementary school of the resident district or the parent must move to the elementary district where the high school is located in order to enroll the other child in high school; or

Dependent and neglected child.

(5) the child has been declared by a district court a dependent and neglected child, as defined in section 10-501, R.C.M., 1947, or a juvenile delinquent child, as defined in section 10-602, R.C.M., 1947, and such child has been ordered to be placed in a duly licensed child care institution which is also approved by the state department of public welfare, and as a result of the order the child is required to attend elementary school outside of the district of his residence. For purposes of this subsection the prescribed geographic relationship of the receiving district to the district of residence shall not apply.

HeinOnline -- 1971 vol. I 130 1971

The trustees of the district where the school to be attended is located shall have the authority to disapprove a tuition agreement that satisfies any of the mandatory approval conditions specified in subsections (1), (2), (3), (4) or (5) above when they shall find that due to insufficient room and overcrowding the accreditation of the school would be adversely affected by the acceptance of the child. In the event of disapproval, the trustees shall so notify the parent in writing within fifteen (15) days of the first receipt of the application.

Disapproval authorized.

Notice.

Section 127. Section 75-6314. **Elementary tuition with discretionary approval.** In considering the approval of a tuition application that is not required to be approved under the provisions of section 75-6313, the tuition approval agents prescribed in section 75-6313 may approve such application when such approval agents, individually, determine that the tuition agreement should be approved because of: (1) the distance and road conditions between the child's residence and any school of his resident district;

Discretionary approval.

(2) the trading center of the child's parents;

(3) an opportunity to live with his relatives;

(4) dormitory facilities in the district to be attended;

(5) the living conditions of the child's family;

(6) the availability of transportation; or

(7) the type of educational program available in the school to be attended.

Section 128. Section 75-6315. **Distances, notification and appeal for elementary tuition purposes.** In considering any approval of an application submitted under the provisions of section 75-6313 or section 75-6314, the approval agents shall determine mileage distances on the basis of the shortest practical route between the child's residence and the school building, and they shall determine the child's residence on the basis of the provisions of section 83-303, R.C.M., 1947.

Determination of mileage distances.

The county superintendent shall notify the parent or guardian and the trustees of the districts involved in the tuition application, of the tuition agreement approval or disapproval. If a tuition agreement is disapproved by

Notice.

HeinOnline -- 1971 vol. I 131 1971

Appeal. any approval agent, the parent may appeal such disapproval to the county superintendent and, subsequently, to the superintendent of public instruction under the provisions for the appeal of controversies in this title. The

Effect of approval. approval of any tuition agreement by the approval agents or upon appeal shall authorize the child named in such agreement to enroll in and attend the school named in such agreement for the ensuing school fiscal year.

Rate of tuition. The rate of tuition and the budgeting and payment procedure prescribed in section 75-7201 shall be applicable to any tuition application approved under the provisions of this section.

Section 129. Section 75-6316. **High school tuition.** Any

Child may enroll outside high school district of residence. child may be enrolled in and attend a high school outside of the county in which he resides when such high school is located in any county of the state of Montana or in a county of another state that is adjacent to the state of Montana. When a parent or guardian of a child wishes to have his child attend a school under the pro-

Application. visions of this section, he shall apply to the county superintendent of the county of his residence before the first day of July of the school fiscal year for which he seeks approval except in those cases when substantial changes in circumstances occurred subsequently to justify later

Tuition agreement form. application. Such application shall be made on a tuition agreement form supplied by the county superintendent and shall be approved by the trustees of the district where the child wishes to attend school and the county superintendent of the child's county of residence before permission to enroll in and attend a school outside of the county under the provisions of this section shall be granted.

Approval. The county superintendent shall approve a tuition application when a child lives closer to a high school of another county than any high school located within his resident county or, when due to road or geographic conditions, it is impractical to attend a high school in his resident county. In approving a tuition agreement under this provision, the county superintendent may require the child to attend the high school closest to his residence. The county superintendent may approve any other tuition application that satisfies the geographic requirements of this section.

HeinOnline -- 1971 vol. I 132 1971

The trustees of the district where the child wishes to attend school shall approve or disapprove any tuition application submitted to them under the provisions of this section within fifteen (15) days after the receipt of the application. Trustees approval.

The county superintendent shall notify the parent or guardian, and the trustees of the district where the child wishes to attend school of the tuition agreement approval or disapproval. If a tuition agreement is disapproved by the county superintendent, the parent may appeal such disapproval to the county superintendent for his reconsideration and, subsequently, to the superintendent of public instruction under the provision for the appeal of controversies in this title. The approval of any tuition agreement by the approval agents or upon appeal shall authorize the child named in such agreement to enroll in and attend the school named in such agreement for the ensuing school fiscal year. Notice. Appeal. Effect of approval.

Section 130. Section 75-6317. **Reporting, budgeting and payment for high school tuition.** At the close of the school term of each school fiscal year and before the fifteenth day of July, the trustees of each high school district shall report to the county superintendent of the county in which the district is located: (1) the names, addresses, and resident counties of the pupils attending the schools of the district under an approved tuition agreement; Annual tuition report.

(2) the number of days of school attended by each pupil; and

(3) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, shall have the authority to waive.

When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the county superintendent of each county in which the reported pupils reside.

When the county superintendent of any county receives a tuition report or reports for high school pupils residing in his county and attending an out-of-county high school under approved tuition agreements, he shall determine the total amount of tuition due such out-of-county high schools on the basis of the following per pupil schedule: Determination of tuition due.

HeinOnline -- 1971 vol. I 133 1971

$300.00 per pupil. (1) three hundred dollars ($300) per pupil when the ANB of the attended school is one hundred (100) or less;

$275.00 per pupil. (2) two hundred seventy-five dollars ($275) per pupil when the ANB of the attended school is more than one hundred (100) but less than three hundred one (301); or

$250.00 per pupil. (3) two hundred fifty dollars ($250) per pupil when the ANB of the attended school is three hundred one (301) or more.

The total amount of the high school tuition determined under the rate schedule, and in consideration of any tuition waivers, shall be financed by the county basic special tax for high schools as provided in section 75-6914.

Source of payment.

In December, the county superintendent shall cause the payment by county warrant of the high school tuition obligations established under this section out of the first monies realized from the county basic special tax for high schools. The payment shall be made to the county treasurer of the county where each high school entitled to tuition is located. The county treasurer shall credit such tuition receipts to the general fund of the applicable high school district, and the tuition receipts shall be used in accordance with the provisions of section 75-6926.

County warrants.

Credit to general fund.

Section 131. Section 75-6318. **Reciprocal tuition agreement with adjoining state.** The superintendent of public instruction shall have the authority to execute a reciprocal tuition agreement with the superintendent of public instruction or a department of education of any state adjoining Montana to allow the eligible children of Montana to attend school in the adjoining state and to allow children of the adjoining state to attend school in Montana. In negotiating a reciprocal tuition agreement, the tuition rates prescribed by section 75-7201 and section 75-6317 shall be waived and the reciprocal tuition rate may be negotiated as a flat amount or an actual-cost-per-pupil amount. The superintendent of public instruction shall supply a copy of any reciprocal tuition agreement that is executed to the county superintendent of each county that may be affected by such agreement.

Authority to execute reciprocal tuition agreements.

Rates negotiated.

Any tuition agreement approved under the provisions of section 75-6313, 75-6314 or 75-6316 for a child's attendance at a school outside of the state shall be completed in accordance with the applicable reciprocal tuition agreement.

HeinOnline -- 1971 vol. I 134 1971

Section 132. Section 75-6319. **High school tuition for public institution at Twin Bridges.** Whenever high school pupils are inmates of the Montana children's center at Twin Bridges and attend high school in Twin Bridges, the superintendent of public instruction shall pay four hundred dollars ($400) per pupil for each pupil who has attended forty (40) or more days of school in such district. The annual payment shall be made from the state equalization aid account to the county treasurer for the credit of the Twin Bridges high school general fund immediately after the end of the school fiscal year of attendance and after the verification of the claim submitted by Twin Bridges high school district. An approved tuition agreement shall not be required under this section.

High school tuition—Twin Birdges.

$400.00 per pupil.

Annual payment.

Section 133. Section 75-6320. **Individual tuition for elementary pupil.** No provision of this title shall be construed to deny a parent the right to send his child, at his own expense, to any elementary school of a district other than his resident district when the parent has agreed to pay the tuition acceptable to the trustees of the district where the school is located. The trustees of the district where the school is located may allow the attendance of a child under the provisions of this section at their discretion. When the attendance is approved, the trustees shall charge tuition at the same rate prescribed by section 75-7201 reduced by any amount which is uniformly waived by the trustees for all tuition payments. However, under this section, tuition shall be waived when the parent of the child paid two hundred dollars ($200) or more in district and county property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school.

Parent may pay tuition.

Waiver.

$200.00 or more paid in property taxes.

Section 134. Section 75-6321. **Individual tuition for high school pupil.** Any child eligible to attend high school may attend school in any high school district of his county of residence without payment of tuition.

Child may attend any high school in district of residence.

No provision of this title shall be construed to deny a parent the right to send his child, at his own expense, to any high school outside of his county of residence when the parent agreed to pay the tuition acceptable to the trustees of the high school district operating such high school. When the attendance is approved, the parent shall pay tuition at the rate fixed by the trustees.

Parent may pay tuition.

HeinOnline -- 1971 vol. I 135 1971

Fees for breakage and excessive supplies.

Section 135. Section 75-6322. **Fees.** The trustees of any district may require pupils in the commercial, industrial arts, music, domestic science, scientific or agricultural courses to pay reasonable fees to cover the actual cost of breakage and of excessive supplies used.

Section 136. Section 75-6323. **Extracurricular fund for pupil functions.** The government of the pupils of the school within a district or the administration of a school on behalf of the pupils may establish an extracurricular fund for the purposes of the receipts and expenditures of money collected for pupil extracurricular functions with the approval of the trustees of the district. All extracurricular moneys of any pupil organization of the school shall be deposited and expended by check from a bank account maintained for the extracurricular fund.

Extracurricular funds.

Deposit.

Accounting.

An accounting system for the extracurricular fund recommended by the state examiner shall be implemented by the trustees. Such accounting system shall provide for: (1) the internal control of the cash receipts and expenditures of the money; and

(2) a general account that can be reconciled with the bank account for the extracurricular fund and reconciled with the detailed accounts within the extracurricular fund maintained for each student function.

Annual audit.

Fee—$60.00 per day.

The trustees of the district shall cause an annual audit of the extracurricular fund by retaining a qualified accountant or the state examiner to perform such audit. Whichever person the trustees wish to retain, they shall notify the state examiner of their decision by the first day of January of the school fiscal year to be audited. If the state examiner performs the audit, a fee of sixty dollars ($60) per day per man shall be paid from the extracurricular fund or district monies to the state examiner for deposit in the state treasury as provided by law.

Filing.

Publication.

The auditor shall file a certified copy of the audit report with the county superintendent. The county superintendent shall publish notice in a newspaper of the district or county of the filing and the fact that it is open to public inspection.

Section 137. Section 75-6401. **Definition.** As used in this title, unless the context clearly indicates otherwise:

HeinOnline -- 1971 vol. I 136 1971

"school election" means any election conducted by a district or community college district for the purpose of electing trustees, for authorizing taxation, for authorizing the issuance of bonds by an elementary district or a high school district, or for accepting or rejecting any proposition that may be presented to the electorate for decision in accordance with the provisions of this title. "School election" defined.

Section 138. Section 75-6402. **Precedence of school election provisions.** Unless specifically identified in any section of the election laws prescribed in title 23, R.C.M., 1947, school elections shall be governed by the provisions of this title. Should there be a conflict between the requirements of title 23 and the provisions of this title regulating school elections, the provisions of this title shall govern. Provisions governing.

Section 139. Section 75-6403. **Election by ballot.** All school elections shall be by ballot. Ballot mandatory.

Section 140. Section 75-6404. **Regular school election day and special school elections.** The first Saturday of April of each year shall be the regular school election day. Unless otherwise provided by law, special school elections may be conducted at such times as determined by the trustees. First Saturday of April. Special elections.

Section 141. Section 75-6405. **Poll hours.** The polls for any school election in any district shall open not later than 12 noon. The trustees may order the polls to open earlier, but no earlier than 8 a.m. However, the polls shall open at 8 a.m. if the school election is held on the same day, at the same polling places and with the same judges and clerks as a general, primary, county or city election. Poll hours. 12 noon. 8 a.m.

Once opened, the polls shall be kept open continuously until 8 p.m. except that whenever all the registered electors at any poll have voted, the poll shall be closed immediately. 8 a.m.

Section 142. Section 75-6406. **Conditions under which school election called.** At least thirty-five (35) days before any school election, the trustees of any district shall call such school election by resolution, stating the date and purpose of such election, and conduct it in accordance with the procedures required by law, when: (1) 35 days. Resolution. Conduct.

HeinOnline -- 1971 vol. I 137 1971

an election must be held on the regular school election day;

(2) in their discretion, such trustees order an election for a purpose authorized by law;

(3) the county superintendent orders an election in accordance with the law authorizing such an order;

(4) the board of education orders an election in accordance with the law authorizing such an order;

(5) the county commissioners order an election in accordance with the law authorizing such an order;

(6) the board of trustees of a community college district orders an election in accordance with the law authorizing such an order, in which case the community college district shall bear its share of the cost of such election; or

(7) a school election is required by law under any other circumstances.

County registrar.

The resolution calling any school election shall be transmitted immediately to the county registrar in order to enable him to close the registration and prepare the lists of registered electors as required by school election laws.

Election within 60 days.

Section 143. Section 75-6407. **Time limitation for conduct of election.** Whenever the trustees of any district receive an order to call an election, they shall conduct such election any time within sixty (60) days after the date of the order unless the law or order otherwise regulates the day or timing of such election.

Poll opening.

Section 144. Section 75-6408. **Resolution for poll hours, polling places, judges, and ballot format.** At the trustee meeting when a school election is called, the trustees also shall: (1) Establish the time at which the polls are to open, if in their discretion they determine that the polls shall be open before 12 noon.

Polling places.

(2) Establish the polling places for such election. There shall be one polling place in each district unless the trustees establish additional polling places. If more than one polling place is established, the trustees shall

Boundaries.

define the boundaries for each polling place and such trustee defined polling place boundaries shall be coter-

HeinOnline -- 1971 vol. I 138 1971

minous with county precinct boundaries existing within a district. If the site of a polling place is changed from the polling place site used for the last preceding school election, special reference to the changed site of the polling place shall be included in the notice for such election.

Change in polling place.

Notice.

(3) Appoint from among the qualified electors of the district, three judges for each polling place for such election and notify each judge of such appointment not less than ten days before the election.

Appointment of three judges.

(4) Establish the format of the ballot for the election unless the ballot format is specified by the law which authorizes the election.

Format of ballot.

Section 145. Section 75-6409. **Election notice.** When the trustees of any district call a school election, they shall give notice of the election not less than twenty (20) days nor more than thirty (30) days before the day of the election by posting notices in three public places in the district; provided that in incorporated cities and towns at least one notice shall be posted at a public place in each ward. Whenever, in the judgment of the trustees, the best interest of the district will be served by the supplemental publication of the school election notice in a newspaper or by a radio or television broadcast, the trustees may cause such notification to be made.

Notice of election.

Posting.

Publication.

The notice of a school election, unless otherwise required by law, shall specify: (1) the date and polling places of the election;

Requirements of notice.

(2) the hours the polling places will be open;

(3) each proposition to be considered by the electorate; and

(4) if there are trustees to be elected, the number of positions subject to election and the length of term of each position.

If more than one proposition is to be considered at the same school election, each proposition shall be set apart and separately identified in the same notice, or published in separate notices.

Section 146. Section 75-6410. **Qualifications of elector.** Except as provided in section 75-6411, every person is entitled to vote at school elections if he has the following

Elector qualifications.

HeinOnline -- 1971 vol. I 139 1971

Registered voter. qualifications: (1) He has registered to vote with the county registrar in the manner provided by the general state election laws except in regard to the closure of elector registration as provided in section 75-6413;

Age. (2) He is twenty-one (21) years of age or older;

Residence. (3) He has resided in the state one (1) year and in the district thirty (30) days immediately preceding the election at which he offers to vote; and

Citizen. (4) He is a citizen of the United States.

Felon cannot vote. No person convicted of a felony has the right to vote unless he has been pardoned.

Insane person cannot vote. No person adjudicated insane has the right to vote unless he has been restored to capacity as provided by law.

Section 147. Section 75-6411. **Additional elector qualifications for taxpayer status.** If an election is held to authorize property taxation or to authorize indebting a district by the issuance of bonds, only that person is entitled to vote who: (1) possesses the qualifications and none of the disabilities established in section 75-6410, and

Taxpayer status.

(2) is a taxpayer on property within the district and whose name appears on the last completed assessment roll of the county for state, county, and school taxes.

Assessment roll.

However, no such person otherwise qualified under this section shall be denied the right to vote by reason of the fact that the polling place for a general election for the precinct wherein he resides and is entitled to vote, lies within another district.

Section 148. Section 75-6412. **Elector challenges.** Any person offering to vote in a school election may be challenged by any elector of the district on any of the grounds for challenge established in section 23-3611, R.C.M., 1947. Such challenge shall be determined in the same manner, using the same oath as provided in chapter 36 of title 23, R.C.M., 1947.

Elector may be challenged.

Any person offering to vote in a school election to authorize property taxation or to authorize indebting a district by the issuance of bonds may be challenged by any elector of the district as to his taxpayer status and the judges shall administer the following oath to the

Challenge of taxpayer status.

HeinOnline -- 1971 vol. I 140 1971

challenged person: "You do swear (or affirm) that you are a taxpayer on the last assessment roll for this school district." Such oath or affirmation shall be reduced to writing and signed by the challenged person and sworn to before one of the election judges. If the voter takes the oath or affirmation, his vote shall be received; otherwise, it will be rejected. Such oath or affirmation shall be recorded in conformity with the provisions of section 23-3617, R.C.M., 1947, and the signed oath or affirmation shall be returned with the ballots to the trustees.

Oath.

Rejection.

Any person who shall offer to vote and is denied the privilege to vote in a school election to authorize property taxation or to authorize indebting a district by the issuance of bonds because he is not identified as a "taxpayer" on the polling place list of registered electors may challenge the validity of the taxpayer designation of such list, and the judges shall administer the following oath to such person: "You do swear (affirm) that you are a taxpayer on the last assessment roll for this school district." Such oath or affirmation shall be reduced to writing and signed by the challenged person and sworn to before one of the election judges. If the voter takes the oath or affirmation, his vote shall be received; otherwise, it will be rejected. Such oath or affirmation shall be recorded in conformity with the provisions of section 23-3617, R.C.M., 1947, and the signed oath or affirmation shall be returned with the ballots to the trustees.

Person denied vote may challenge validity of list.

Oath.

Rejection.

Any person who shall have been challenged under any of the provisions of this section or has challenged the taxpayer designation of the list of registered electors and who shall swear or affirm falsely before any school election judge shall be guilty of perjury and shall be punished accordingly.

Penalties for perjury.

Section 149. Section 75-6413. **Closure of registration.** Registration for school elections shall close for thirty (30) days before any school election, but it shall not be necessary to publish any notice of such closing of registration.

Registration closed 30 days before school election.

Section 150. Section 75-6414. **Lists of registered electors.** After closing registration the county registrar shall prepare a list of registered electors for each polling place established by the trustees. The list for each polling place shall be prepared in the format of a precinct reg-

List of electors for each polling place.

HeinOnline -- 1971 vol. I 141 1971

"Taxpayer."

ister book. The registrar shall stamp "taxpayer" beside the name of an elector who is a taxpayer on property within the district and whose name appears on the last completed assessment roll of the county for state, county, and school taxes to show that he is qualified to vote for a proposition in a school election requiring taxpayer status of the electors.

Delivery of lists.

Section 151. Section 75-6415. **Delivery of and charge for lists of registered electors.** Before the day of the election, the registrar shall deliver a certified copy of the lists of registered electors for each polling place to the district which shall deliver them to the election judges prior to the opening of the polls. A charge of three cents ($.03) per name shall be paid by the district to the county for preparing the lists of registered electors.

Charge 3 cents per name.

Absentee ballots.

Section 152. Section 75-6416. **Absentee voting.** A qualified registered elector who will be absent from the district or physically incapacitated and unable to go to the polls on the day of a school election may vote by casting an absentee ballot. The superintendent of public instruction shall prepare the form of application for absentee ballots and other forms necessary for absentee voting at school elections and may make necessary rules to carry out the purpose of absentee voting as established by the provisions of the general state election laws of Montana.

Forms.

Rules.

Voting machines may be used in school elections.

Section 153. Section 75-6417. **Voting machines and electronic voting systems.** Whenever voting machines or electronic voting systems are available to a district, such voting devices may be used for a school election. Any district that uses a voting machine or an electronic voting system shall do so in accordance with the provisions of chapter 38 or chapter 39 of title 23 of the Revised Codes of Montana. In construing the provisions of those chapters, the "county commissioners" and the "registrar" shall, for the purposes of this section, be considered to refer to trustees and "county" shall be considered to refer to district.

Definitions.

Duties of trustees.

Oaths.

Section 154. Section 75-6418. **General supervision and supplies.** The trustees are the general supervisors of school elections. They are authorized to and shall administer oaths to election judges. Before the opening

HeinOnline -- 1971 vol. I 142 1971

of the polls, the trustees shall cause the judges and each polling place to be supplied with: (1) a sufficient number of ballots for each proposition election or trustee election to be conducted; Supplies. Ballots.

(2) at least six (6) cards instructing electors in the process of how to vote; Instruction cards.

(3) a list of electors prepared in the format of a precinct register book; List of electors.

(4) a pollbook for the poll list; Pollbook.

(5) tally sheets; Tally sheets.

(6) a sufficient number of booths, each provided with a door or a curtain to screen the voter from view and furnished adequately to enable the voter to prepare his ballot; Booths.

(7) ballot boxes or canvas pouches with a lock and key; and Boxes.

(8) any other supplies necessary for the proper conduct of the election. Other supplies.

Section 155. Section 75-6419. **Clerk of election judges and appointment for absent judge.** Before conducting the school election and on the day of the election, the judges shall designate one of their number to act as clerk of such election. If any of the judges appointed by the trustees are not present at the time for the opening of the poll, the electors present at that time may appoint a qualified elector for such election to act in the place of the absent judge. Clerk of election.

Section 156. Section 75-6420. **Election expenses.** All expenses necessarily incurred in the matter of holding school elections shall be paid out of the school funds of the district, except when such expenses are by law to be shared by a community college district for which the district is conducting an election. The trustees may pay the election judges of a school election at a rate not to exceed the prevailing federal minimum wage per hour of service in connection with such election. Election expenses. Maximum rate of pay.

Section 157. Section 75-6421. **Conduct of election.** Election judges shall conduct school elections in a manner that insures a fair and unbiased determination of the matters put before the electorate, and see that each elect- Duties of election judges—conduct of school elections.

HeinOnline -- 1971 vol. I 143 1971

or has an adequate opportunity to cast his vote. To that end election judges shall: (1) post at least one (1) instruction card in each voting booth and not less than three (3) such cards elsewhere about the polling place;

(2) proclaim the opening and closing of the polls;

(3) insure that no more than one (1) person occupies a voting booth at one (1) time and that no person occupies a booth longer than is reasonably necessary;

(4) enforce the rules against certain prohibited conduct as provided in section 23-3605, R.C.M., 1947;

(5) aid a disabled elector in marking his ballot in the manner provided by section 23-3609, R.C.M., 1947; and

(6) follow the remaining provisions of chapter 36 of title 23, R.C.M., 1947, regulating the conduct of elections, and chapter 14 of title 94, R.C.M., 1947, except that no deviation from those regulations shall vitiate the election so long as it can reasonably be concluded that neither the outcome of the election nor any individual elector was prejudiced by such deviation.

Section 158. Section 75-6422. **Delivery of ballot, pollbook, tally sheet, and certifying election result.** The judges shall conduct school elections in the following manner: (1) The election judges shall deliver the ballots to the elector offering to vote and shall cause the recording of such elector's signature on the registered elector listing for the polling place.

Ballots.

Pollbook.

(2) A pollbook shall be kept by the election clerk. The clerk shall record the name of each elector in the pollbook at the time his ballot is deposited in the ballot box. One pollbook may be kept for two or more school elections conducted simultaneously at the same poll.

Counting of ballots —equalizing.

(3) Immediately after closing the polls, the judges shall count ballots. If there are more ballots than the recorded number of electors in the pollbook, the judges shall draw by lot from the ballots, without seeing them, a sufficient number of ballots to equalize the number of ballots and the number of electors.

Count and tally.

(4) After the number of electors and ballots have been equalized, the judges shall proceed to count the ballots. The clerk shall enter on the tally sheet for the trustee

HeinOnline -- 1971 vol. I 144 1971

election the name of every person voted for trustee, grouping them by length of term of the trustee position for which they were a candidate. The votes cast for a person shall be tallied opposite his name. When a proposition is presented at a school election, the clerk shall enter "for" and "against" on the tally sheet and record each vote opposite the appropriate entry on the tally sheet. A separate tally sheet shall be kept for each election of trustees and for each proposition.

Signing and certification.

(5) After the votes have been entered on a tally sheet, the judges and clerk shall sign it and certify upon the tally sheet the following information:

Number of votes.

(a) the number of votes cast for each person who received votes for trustee and the length of term for which he received these votes; or

Totals "for" and "against."

(b) the total number of votes cast "for" and "against" a proposition.

Verification by judges.

The certified totals shall be verified by the judges as being correct to the best of their knowledge, before an officer authorized to administer oaths. No informality in such certification shall vitiate the election, if the number of votes for each person or for or against each proposition can reasonably be ascertained from each tally list.

Return to trustees.

(6) The school election judges shall return the poll-book, ballots, certified tally sheets, and the registered elector listing to the trustees of the district as soon as possible.

Section 159. Section 75-6423. **Trustees canvass of votes and issuance of election certificate.** At the first regular or special meeting of the trustees conducted after the receipt of the certified tally sheets of any school election from all the polls of the district, the trustees shall canvass the vote. Such canvass shall include a redetermination of the total votes cast for each person for trustee or the total votes cast "for" and "against" each proposition, as shown on the tally sheet or sheets.

Canvass of vote.

Certificate of election.

After the redetermination of the total votes cast, the trustees shall issue a certificate of election. In the case of a trustee election, the certificate shall be issued to

HeinOnline -- 1971 vol. I 145 1971

the elected trustee and the county superintendent designating the term of the trustee position to which he has been elected. In the case of an election on a proposition, the trustees shall issue a certificate specifying the outcome of the election. The certificate shall be issued within fifteen (15) days after the election to that official or public body which ordered the election. When the election has been ordered by resolution of the trustees, the canvassed results shall be published immediately in a newspaper that will give notice to the largest number of people of the district.

Issued within 15 days.

Publication.

Section 160. Section 75-6501. **Definition of elementary and high school districts.** As used in this title, except as defined in section 75-7102 for bonding purposes or unless the context clearly indicates otherwise, the term "district" means the territory, regardless of county boundaries, organized under the provisions of this title to provide public educational services under the jurisdiction of the trustees prescribed by this title. High school districts may encompass all or parts of the territory of one (1) or more elementary districts.

"District" defined.

Elementary district.

High school district.

An elementary district is a district organized for the purpose of providing public education for all grades up to and including grade eight (8), and for preschool programs and kindergartens. A high school district is a district organized for the purpose of providing those public educational services authorized by this title for all grades beyond grade eight (8), including post-secondary programs, except those programs administered by community college districts or the Montana university system.

Designation.

Body corporate.

An elementary district shall be known as "District No. ....., ... County" and a high school district, except a high school district where a county high school is operated, shall be known as "High School District No. ....., ... County." Any district shall be a body corporate and, as such body corporate, may sue and be sued, contract and be contracted with, and acquire, hold, use and dispose of real or personal property for school purposes, within the limitations prescribed by law.

Trustees—types of powers and duties.

Unless the context clearly indicates otherwise, the trustees of elementary districts and high school districts shall have the same types of powers, duties, and responsibilities authorized and imposed by the laws of Montana.

HeinOnline -- 1971 vol. I 146 1971

Elementary district operating high school district.

Unless the context clearly indicates otherwise, an elementary district operating a high school in a county that has not been divided into high school districts shall be considered a high school district under this title and the trustees of the elementary district shall be the trustees of the high school district. Such an elementary district operating a high school shall not have the bonding authority of a high school district. However, the elementary district may exercise its bonding authority, in the manner provided by law, for high school purposes.

Bonding authority.

County high school deemed high school district.

As used in this title, unless the context clearly indicates otherwise, a county high school shall be considered a high school district subject to the limitations prescribed by law for a county high school as a result of its being a part of the county government. The boundaries of the high school district for a county high school shall be: (1) the high school district boundaries established by the county high school boundary commission; or

Boundaries defined.

(2) if no such boundaries have been established, the county boundaries, except for any territory located in a joint high school district.

Bonding authority.

Any county high school recognized as a high school district under the provisions of subsection (2) above shall not have a bonding authority. Instead, the county shall exercise its bonding authority in the manner provided in section 75-7133.

Existing boundaries recognized.

Section 161. Section 75-6502. **Confirmation of existing district boundaries.** All districts established under the laws of the State of Montana or the territory of Montana and defined by the boundaries described in the records of each county on the effective date of this act shall be recognized as the districts of the state on such date.

Classifications.

Section 162. Section 75-6503. **District classification.** Each elementary district shall have a classification of: (1) first class, if it has a population of eight thousand (8,000); or

First class.

Second class.

(2) second class, if it has a population of one thousand (1,000) or more but less than eight thousand (8,000); or

Third class.

(3) third class, if it has a population of less than one thousand (1,000).

HeinOnline -- 1971 vol. I 147 1971

Computation of population.

The population of an elementary district shall be determined by the county superintendent on the basis of the best available population information for the district or; if the county superintendent deems it more equitable, he shall multiply by three (3) the approved number of school census children from the last completed census report of the district who are six (6) years of age or older but who have not reached their twenty-first birthday.

Change in population—reclassification.

The county superintendent shall establish the classification of each elementary district in the county on the basis of the population determined for the district and the district classification criteria prescribed in this section. Whenever the population of an elementary district increases or decreases requiring an adjustment of the district classification according to the criteria prescribed in this section, the county superintendent shall declare such district's classification to be changed in accordance with the determined population, except that the classification of an elementary district shall not be changed more than once every five (5) years.

5 years.

Increased number of trustees.

Whenever the county superintendent changes an elementary district's classification with the result that a larger number of trustees is required on the elementary board of trustees, the increased number of trustee positions shall be filled in the manner provided for filling trustee vacancies. Such positions shall be subject to election on the next regular school election day. If the

Reduced number of trustees.

county superintendent changes an elementary district's classification with the result that a lesser number of trustees is required, the next elementary trustee positions that become vacant under any circumstances shall not be filled until the number of elementary trustee positions has been reduced to the number required by law.

Adjustment in number of trustee positions.

The classification of a high school district shall be the same as the classification of the elementary district where the high school building is located. Whenever the classification of such elementary district is changed, the classification of a high school district shall be changed accordingly, and the county superintendent shall adjust the number of additional high school district trustee positions in accordance with the method prescribed in section 75-5905 for the determination of the number of additional trustee positions required for a high school district. An

Appointment.

increased number of trustee positions shall be filled by

HeinOnline -- 1971 vol. I 148 1971

the appointment of the county superintendent and such positions shall be subject to election at the next regular trustee election. When the number of positions is decreased, the next additional high school trustee positions that become vacant under any circumstances shall not be filled until the number of trustee positions has been reduced to the number required by law.

Decrease.

Section 163. Section 75-6504. **Permanent record of district boundaries.** The board of county commissioners shall maintain a permanent record which plainly and definitely describes the boundaries of each district within the county. The county superintendent shall keep a transcript of the record in his office and shall be responsible for keeping the record current.

Permanent boundary records.

If the county superintendent determines that the boundaries of any elementary district or high school district are in conflict or are incorrectly described, he shall change, harmonize, and describe them accurately, and he shall make a report of such boundary adjustments to the board of county commissioners. When the board of the county commissioners approves a district boundary report submitted by the county superintendent, such boundaries shall be the legal boundaries and description of the district within the county. Whenever district boundaries are clarified under this section, the county superintendent shall supply the trustees of the district with the legal descriptions of the boundaries of their district.

Boundary adjustments.

Approval.

Legal descriptions.

Section 164. Section 75-6505. **Time limitation for district boundary changes.** No elementary district shall be created nor shall any elementary district boundaries be changed between the first day of March and the second Monday of August of any calandar year except when: (1) the entire territory of a district is annexed or attached to another district;

No change between March 1 and second Monday in August.

Exceptions.

(2) the entire territory of the portion of a joint district located in one (1) county is annexed or attached to another district; or

(3) two (2) or more districts are consolidated in their entirety.

Section 165. Section 75-6506. **Elementary district con-**

HeinOnline -- 1971 vol. I 149 1971

Elementary districts—consolidation.

solidation. Any two (2) or more elementary districts in one (1) county may consolidate to organize an elementary district. The consolidation shall be conducted under the following procedure: (1) At the time the consolida-

Joint determination.

tion proposition is first considered, the districts involved shall jointly determine whether the consolidation shall be made with or without the mutual assumption of the bonded indebtedness of each district by all districts included in the consolidation proposition.

Methods of proposal.

(2) A consolidation proposition may be introduced, individually, in each of the districts by either of the two following methods:

Resolution of trustees.

(a) the trustees may pass a resolution requesting the county superintendent to order an election to consider a consolidation proposition involving their district; or

20% of electors.

(b) not less than twenty per cent (20%) of the electors of an elementary district who are qualified to vote under the provisions of section 75-6410 may petition the county superintendent requesting an election to consider a consolidation proposition involving their resident district.

(3) When the county superintendent has received a resolution or a valid petition from each of the districts

Within 10 days.

included in the consolidation proposition, he shall, within ten (10) days after the receipt of the last resolution or petition and as provided by section 75-6406, order the trustees of each elementary district included in the con-

Consolidation election.

solidation proposition to call a consolidation election.

District election.

(4) Each district, individually, shall call and conduct an election in the manner prescribed in this title for school elections. In addition:

Assumption of bonded indebtedness.

(a) if the districts to be consolidated are to mutually assume the bonded indebtedness of each district involved in the consolidation, the consolidation election also shall follow the procedures prescribed in section 75-6509; or

Non assumption of bonded indebtedness.

(b) if the districts to be consolidated are not to mutually assume the bonded indebtedness of each district involved in the consolidation, the consolidation election also shall follow the procedures prescribed in section 75-6510.

HeinOnline -- 1971 vol. I 150 1971

(5) After the county superintendent has received the election certification under the provisions of section 75-6423 from the trustees of each district included in a consolidation proposition, he shall determine if the consolidation proposition has been approved in each district. If each district has approved the consolidation proposition, he shall, within ten (10) days after the receipt of the last election certificate, order the consolidation of such districts. If it be for consolidation with the mutual assumption of bonded indebtedness of each elementary district by all districts included in the consolidation order, such order shall specify that all the taxable real and personal property of the consolidated district shall assume the bonded indebtedness of each district. In addition, such order shall specify the number of the consolidated elementary district and shall contain the county superintendent's appointment of the trustees for the consolidated district who shall serve until a successor is elected at the next succeeding regular school election and qualified. The superintendent shall send a copy of such order to the board of county commissioners and to the trustees of each district incorporated in the consolidation order. If any district included in the consolidation proposition disapproves the consolidation proposition, the consolidation of all districts shall fail and the county superintendent shall notify each district of the disapproval of the consolidation proposition.

County superintendent determines approval.

Within 10 days—order of approval.

Mandatory provisions of order.

Distribution.

District nonapproval.

Notice.

Section 166. Section 75-6507. **Conditions for elementary district annexation.** An elementary district may be annexed to another elementary district located in the same county when: (1) a third-class district where a high school is not located is annexed to a third-class district where a high school is located, a first-class district, or a second-class district.

Elementary district annexation—conditions.

(2) a third-class district where a high school is located is annexed to a first-class district or a second-class district; or

(3) a second-class district is annexed to a first-class district.

The annexation of elementary districts shall be conducted under the provisions of section 75-6508.

Conduct.

Section 167. Section 75-6508. **Elementary district an-**

HeinOnline -- 1971 vol. I 151 1971

Annexation procedure.

nexation. An elementary district may be annexed to another elementary district located in the same county in accordance with the following procedure: (1) At the time the annexation proposition is first considered, the districts involved shall jointly determine whether the annexation shall be made with or without the joint assumption of the bonded indebtedness of the annexing district by the district to be annexed and the annexing district.

Joint determination.

Methods of proposal.

(2) An annexation proposition may be introduced in the district to be annexed by either of the two following methods:

Trustees' resolution.

(a) the trustees may pass a resolution requesting the county superintendent to order an election to consider an annexation proposition for their district; or

20% of electors.

(b) not less than twenty per cent (20%) of the electors of the district who are qualified to vote under the provisions of section 75-6410 may petition the county superintendent requesting an election to consider an annexation proposition for their district.

Authority.

(3) Before ordering an election on the proposition the county superintendent shall first receive from the trustees of the annexing district a resolution giving him the authority to annex such district.

Within 10 days.

Annexation election.

(4) When the county superintendent has received authorization from the annexing district, he shall, within ten (10) days after the receipt of the resolution or a valid petition from the district to be annexed and as provided by section 75-6406, order the trustees of the district to be annexed to call an annexation election.

Conduct of election.

(5) The district shall call and conduct an election in the manner prescribed in this title for school elections. In addition:

Assumption of bonded indebtedness.

(a) if the district to be annexed is to jointly assume with the annexing district, the bonded indebtedness of the annexing district, the annexation election shall also follow the procedures prescribed in section 75-6509; or

Nonassumption of bonded indebtedness.

(b) if the district to be annexed is not to jointly assume with the annexing district, the bonded indebtedness of the annexing district, the annexation election shall also follow the procedures prescribed in section 75-6510.

HeinOnline -- 1971 vol. I 152 1971

(6) After the county superintendent has received the election certificate from the trustees of the district conducting the annexation election under the provisions of section 75-6423 and if the annexation proposition has been approved by such election, he shall order the annexation of the territory of the elementary district voting on such proposition to the elementary district that has authorized the annexation to its territory. Such order shall be issued within ten (10) days after the receipt of the election certificate and, if it be for annexation with the assumption of bonded indebtedness, shall specify that all the taxable real and personal property of the annexed territory shall jointly assume with the annexing district the existing bonded indebtedness of the annexing district. The county superintendent shall send a copy of the order to the board of county commissioners and to the trustees of the districts involved in the annexation order. If the annexation proposition is disapproved in the district to be annexed, it shall fail and the county superintnedent shall notify each district of the disapproval of the annexation proposition.

Approval. Order of annexation.

Within 10 days.

Distribution of order.

Notice of nonapproval.

Section 168. Section 75-6509. **Consolidation or annexation election with assumption of bonded indebtedness.** A consolidation election involving the mutual assumption of bonded indebtedness by the elementary districts to be consolidated, as prescribed in section 75-6506, or an annexation election involving the joint assumption of bonded indebtedness by the elementary district to be annexed, as prescribed in section 75-6508, shall comply with the following procedures in addition to those prescribed by this title for other school elections: (1) Ballots in two distinctly different colors shall be used, and separate ballot boxes shall be provided to segregate the ballots one color from another.

Election involving assumption of indebtedness.

Ballots—two colors.

(a) In a consolidation election both colored ballots shall read, after stating the consolidation proposition, "FOR consolidation with assumption of bonded indebtedness" and "AGAINST consolidation with assumption of bonded indebtedness."

Consolidation.

For and against.

(b) In an annexation election both colored ballots shall read, after stating the annexation proposition, "FOR annexation with assumption of bonded indebtedness" and "AGAINST annexation with assumption of bonded indebtedness."

Annexation.

For and against.

HeinOnline -- 1971 vol. I 153 1971

Division of ballots.

(2) Electors who are taxpayers and qualified to vote under the provisions of section 75-6411 shall vote with ballots of one of the colors, and non-taxpaying electors who are qualified to vote under the provisions of section 75-6410 shall vote with ballots of the other color.

Trustees' canvass.

(3) When the trustees in each elementary district conducting an election canvass the vote under the provisions of section 75-6423, they shall decide according to the following procedure, if the proposition has been approved:

Procedure.

Number of taxpaying electors.

(a) Determine if a sufficient number of the qualified, taxpaying electors of the district have voted to validate the election and have voted to approve the election proposition in the same manner required for bond elections by section 75-7117,

Votes for and against.

(b) When the proposition is approved under subsection (3)(a), determine the number of votes "FOR" and "AGAINST" the proposition that have been cast on the separate ballots by the electors who were not qualified as taxpayers;

Tallies.

(c) Add the vote tallies "FOR" and "AGAINST" as determined in subsection (3)(b) to the corresponding tallies determined in subsection (3)(a).

Approval.

The proposition shall be approved in the district if the sums of the "FOR" and "AGAINST" votes of the two categories of electors show that a majority of the total votes cast approved the proposition. If the proposition is disapproved under either the provisions of subsection (3)(a) or (3)(c), the proposition shall be disapproved in the district.

Nonapproval.

Consolidation or annexation election not involving assumption.

Section 169. Section 75-6510. **Consolidation or annexation election without assumption of bonded indebtedness.** A consolidation election without the assumption of bonded indebtedness by the elementary districts to be consolidated, as prescribed in section 75-6506, or an annexation election without the joint assumption of bonded indebtedness by the elementary district to be annexed as prescribed in section 75-6508, shall be conducted in the manner prescribed by this title for school elections. Any elector qualified to vote under the provisions of section 75-6410 may vote at the election.

Conduct.

Ballots.

In a consolidation election the ballots shall read, after

HeinOnline -- 1971 vol. I 154 1971

stating the consolidation proposition, "FOR consolidation without assumption of bonded indebtedness" and "AGAINST consolidation without assumption of bonded indebtedness." The consolidation proposition shall be approved by a district if a majority of those voting in a district approve the proposition, otherwise it shall be disapproved.

For and against.

Majority approval.

In an annexation election the ballots shall read, after stating the annexation proposition, "FOR annexation without assumption of bonded indebtedness" and "AGAINST annexation without assumption of bonded indebtedness." The annexation proposition shall be approved by a district if a majority of those voting approve the proposition, otherwise it shall be disapproved.

Ballots.

For and against.

Majority approval.

Section 170. Section 75-6511. **Elementary district consolidation of two or more counties to organize joint elementary district.** Any two (2) or more elementary districts located in more than one (1) county and whose territory is contiguous may consolidate to organize a joint elementary district. When a joint district consolidation proposition is to be introduced and considered in two (2) or more districts, the consolidation procedure for elementary district consolidation without the assumption of bonded indebtedness prescribed in sections 75-6506 and 75-6510 shall be used except that each district shall submit its resolution or petition and its election certificate to the county superintendent of its resident county and the several county superintendents shall jointly perform the duties prescribed for the county superintendent in section 75-6506.

Joint elementary district.

Consolidation procedure.

Joint duties.

Section 171. Section 75-6512. **Elementary district abandonment.** The county superintendent shall declare an elementary district to be abandoned and order the attachment of the territory of such district to a contiguous district of the county when: (1) a school has not been operated by a district for at least one hundred eighty (180) days under the provisions of section 75-7402 for each of three (3) consecutive school fiscal years; or

Abandonment and order of attachment.

180 days.

3 years.

(2) there is an insufficient number of residents who are qualified electors of the district that can and will serve as the trustees and clerk of the district so that a legal board of trustees can be organized.

Insufficient residents.

The county superintendent shall notify the elementary

Notice.

HeinOnline -- 1971 vol. I 155 1971

district that has not operated a school for two (2) consecutive years before the first day of the third year that the failure to operate a school for one hundred eighty (180) days during the ensuing school fiscal year shall constitute grounds for abandonment of such district at the conclusion of the succeeding school fiscal year. Failure by the county superintendent to provide such notification shall not constitute a waiver of the abandonment requirement prescribed in subsection (1) above.

Grounds for abandonment.

Any abandonment under subsection (1) shall become effective on the first day of July. Any abandonment under subsection (2) of an elementary district shall become effective immediately on the date of the abandonment order.

Effective July 1.

Date of order.

Section 172. Section 75-6513. **Joint elementary district abandonment.** Any joint elementary district shall be abandoned for the reasons prescribed in section 75-6512 or when the taxable value of the taxable property of the portion of the joint district that is located within any one of the counties is of so little value that the continued inclusion of such portion in the joint district is not justified. The county superintendent designated by section 75-6720 for school budgeting purposes shall be responsible for ordering the abandonment of the joint district and shall immediately send a copy of such order to the county superintendent of each county with territory in the joint district.

Abandonment—joint elementary district small taxable value.

Order.

Distribution.

After the issuance or receipt of the abandonment order, each county superintendent shall attach the territory within his county to a contiguous elementary district within his county; except when the district is abandoned because of the lack of taxable property in one county's territory of the district and a school is operated in another county's territory of the district which territory has a taxable value of seventy-five thousand dollars ($75,000) or more, the county superintendent of the county where such territory is located shall not attach it to another district. Such territory shall continue to operate as an elementary district within the county.

County superintendent shall attach—exception.

Taxable value—$75,000 or more.

Any abandonment of a joint elementary district shall become effective on the date of the abandonment order except that district abandonments under the provisions of subsection (1) of section 75-6512 shall become effective on the first day of July.

Effective date.

Section 173. Section 75-6514. **Joint elementary district.**

HeinOnline -- 1971 vol. I 156 1971

dissolution. Any joint elementary district may be dissolved. A proposition to dissolve a joint elementary district shall be introduced by a petition signed by a majority of the electors, qualified under the provisions of section 75-6410, who reside in the territory of the joint district that is located within one (1) county. Such petition shall be addressed and presented to the county superintendent of the county of residence of the petitioners.

Joint elementary district—dissolution.

Petition.

Whenever a county superintendent receives a valid petition for the dissolution of a joint elementary district, he shall immediately notify the county superintendents of all the other counties with territory located in the joint district. The county superintendents jointly shall, within ten (10) days after the receipt of the petition and as provided by section 75-6406, order the trustees of the joint district to call an election. The trustees shall call and conduct, at the same time, separate elections in each portion of the joint district that is located in a separate county. Such elections shall be called and conducted in the manner prescribed in this title for school elections and shall be considered as if each were an election in a separate district. An elector who may vote at a joint district dissolution election shall be qualified to vote under the provisions of section 75-6410. The election judges for each separate election in the joint district shall send the election certificate to the county superintendent of the county in which they serve.

Notice.

Within 10 days.

Order to call election.

Conduct of elections.

Voter qualification.

Certificate.

After the receipt of the election certificates, the county superintendents shall jointly determine the result of such election on the following basis: (1) If a majority of all the joint district electors voting at each election conducted in the joint district are in favor of the dissolution of the joint district, the dissolution of the joint elementary district shall be approved;

Dissolution approval.

(2) If two-thirds (2/3) of the electors voting at one of the elections conducted in a county's portion of the joint district vote in favor of the joint district dissolution, the dissolution of that portion of such joint district may be approved if all the county superintendents involved in such dissolution proposition agree that such dissolution will not place an undue hardship on any other county's portion of the joint district and there is no good and sufficient reason why such dissolution should not be made; or

Two-thirds vote—dissolution of portion.

HeinOnline -- 1971 vol. I 157 1971

Nonapproval.

(3) If the conditions of either subsection (1) or (2) cannot be satisfied, the dissolution of the joint district shall be disapproved.

Order.

Notice.

Effective day.

The county supeintendents shall jointly order the joint elementary district dissolution if the proposition is approved and, whether it has been approved or disapproved, shall jointly notify the joint district of the result. The dissolution of a joint district shall become effective on the first day of the ensuing school fiscal year.

Order of attachment.

When the dissolution of a joint elementary district has been approved and ordered under subsection (1) above, the county superintendent of each county shall individually order the attachment of the territory of the dissolved joint elementary district within his county to a contiguous elementary district within his county; except when a school is operated in such territory, in which case the territory shall operate as a separate elementary district of the county.

Attachment.

When the dissolution of a joint elementary district has been approved and ordered under the provisions of subsection (2) above, the county superintendent of the county where the dissolved portion of the joint elementary district is located shall attach such territory to a contiguous elementary district within his county.

No subsequent election within three years.

In the event a dissolution proposition is disapproved, no subsequent joint elementary district dissolution election shall be held within three (3) years thereafter.

Boundary change-licensed child care institution district.

Section 174. Section 75-6515. **Boundary change of licensed child care institution elementary district.** The boundaries of any elementary district created under the provisions of chapter 105, Laws of 1965 shall be changed by the acquisition of any land contiguous to the district by the licensed child care institution for which such district was created. The boundaries shall be changed to include the additional acquired land in the district.

Majority of electors may petition.

Section 175. Section 75-6516. **Transfer of territory from one elementary district to another.** A majority of the electors of any elementary district, who are qualified to vote under the provisions of section 75-6411 and who reside in territory which is part of an elementary district,

HeinOnline -- 1971 vol. I 158 1971

Transfer of territory to elementary district—requirements.

may petition the county superintendent to transfer such territory to another elementary district when: (1) such territory is contiguous to the district to which it is to be attached;

(2) such territory is not located within three miles, over the shortest practical route, of an operating school of the district from which it is to be detached; and

Limitations.

(3) the transfer of such territory will not reduce the taxable value of the district to less than seventy-five thousand dollars ($75,000) unless the remaining territory of the district will contain not less than fifty thousand (50,000) acres of nontaxable Indian land.

Petition provisions.

The petition shall be addressed to the county superintendent and shall describe the territory that is requested to be transferred and to what district it is to be transferred, state the reasons why such transfer is requested, and state the number of elementary school-age children residing in such territory.

Filing.

Hearing within 40 days.

On receipt of a valid petition for a territory transfer, the county superintendent shall file such petition, set a hearing place, date, and time for consideration of the petition that is not more than forty (40) days after the receipt of the petition and give notice of the place, date, and time of the hearing. The notices shall be posted in the districts affected by the request in the manner prescribed in this title for school elections, with at least one such notice posted in the territory to be transferred.

Notices posted.

Conduct of hearing.

Order of county superintendent.

The county superintendent shall conduct the hearing as scheduled, and any resident or taxpayer of the affected districts shall be heard. If the county superintendent shall deem it advisable and in the best interests of the residents of such territory, he shall grant the petitioned request and order the change of district boundaries to coincide with the boundary description in the petition. Otherwise, he shall, by order, deny the request. Either of the orders shall be final thirty (30) days after its date unless it is appealed to the board of county commissioners by a resident or taxpayer of either district affected by the territory transfer. The decision of the board of county commissioners, after a hearing on such matter and consideration of the material presented at the county superintendent's hearing, shall be final.

Final after 30 days unless appealed.

Decision of board final.

HeinOnline -- 1971 vol. I 159 1971

Whenever a petition to transfer territory from one elementary district to another elementary district would create a joint elementary district or affect the boundary of an existing joint elementary district, the petition shall be presented to the county superintendent of the county where the territory is located. Such county superintendent shall notify any other county superintendents of counties with districts affected by such petition and the duties prescribed in this section for the county superintendent and the board of county commissioners shall be performed jointly by such county officials.

Presentation of petition.

Notice.

Joint duties.

Section 176. Section 75-6517. **Limitations for creation of new elementary district.** A new elementary district may be created out of the territory of an existing elementary district or districts when: (1) the taxable value of the taxable property of the territory proposed to be included in such new district is seventy-five thousand dollars ($75,000) or more, except that when fifty thousand (50,000) acres or more of such new district are nontaxable Indian land, this limitation shall not be applicable;

Creation of new elementary districts.

Limitations.

Indian land.

Taxable value. (2) the taxable value of the taxable property of each existing district from which territory would be detached will be seventy-five thousand dollars ($75,000) or more after the territory is detached; and

Number of children. (3) the number of school census children between the ages of six (6) and sixteen (16) years according to the last completed district census reports in any of the existing districts is not reduced to less than fifteen (15).

Section 177. Section 75-6518. **Procedure for creation of a new elementary district.** The petition requesting the creation of a new elementary district out of the territory of an elementary district or districts shall be addressed to the county superintendent and shall: (1) describe the territory that is requested to be incorporated in the new district and the taxable value of such territory as shown by the last completed assessment roll;

Petition.

Provisions.

Land description.

Reasons. (2) state the reasons why the creation of a new district is requested; and

Signatures required. (3) be signed by the parents or guardians of not less than ten (10) children between the ages of six (6) and sixteen (16) years who reside in the territory that would be included in the new district and who reside more than

HeinOnline -- 1971 vol. I 160 1971

three (3) miles over the shortest practical route from an operating school.

When a county superintendent receives a valid petition requesting the creation of a new district, he shall file such petition, set a hearing place, date, and time for consideration of such petition that is not more than forty (40) days after the receipt of the petition and give notice of the place, date, and time of the hearing. The notices shall be posted in the districts affected by the request in the manner prescribed in this title for school elections, with at least one such notice posted in the territory to be included in the new district.

Filing.

Hearing within 40 days.

Notices posted.

The county superintendent shall conduct the hearing as scheduled unless before or at the time of the hearing he receives a protest petition signed by a majority of the electors of the proposed new district who are qualified to vote under the provisions of section 75-6410. A valid protest petition shall conclusively deny the creation of a new district. If a hearing is conducted, any resident or taxpayer of the affected districts shall be heard. If the county superintendent shall deem it advisable and in the best interests of the residents of the proposed new district, he shall grant the petitioned request and order the creation of a new elementary district with its boundaries coinciding with the boundaries defined in the petition. Otherwise, he shall, by order, deny the request.

Conduct of hearing.

Protest petition.

Order of creation.

Denial.

Either of the county superintendent's orders may be appealed to the board of county commissioners within thirty (30) days after the date of such order. Such appeal shall be in writing, signed by not less than three (3) resident taxpayers, and shall state sufficient facts to show the appellants' right to appeal the order. The board of county commissioners shall call a hearing of such appeal for the first regular meeting of the commission that will allow notice of the hearing to be given in accordance with the requirements for notice of school elections. After considering the material presented at the county superintendent's hearing and such other material as is presented at its hearing, the board of county commissioners shall render a decision on the creation of such new elementary district. Such decision shall be final.

Appeal within 30 days.

Hearing.

Board decision final.

When a new elementary district is created, the county

HeinOnline -- 1971 vol. I 161 1971

Appointment of trustees.

superintendent shall appoint the trustees of the new district giving preference in his selections to any trustees who were trustees of an old district and who reside in the new district. Any trustee position vacancies that may occur in the other districts shall be filled in the manner provided for filling trustee position vacancies for such district. Any trustee appointed under the provisions of this section shall serve until a successor is elected at the next regular school election and qualified.

Null and void unless school opend in 8 months.

Re-incorporation.

The order of the county superintendent or, if his order is appealed, the decision of the board of county commissioners creating a new district under this section shall be null and void and the new district shall cease to exist, if such district does not open and operate a school within eight (8) months after the date of such order or decision. If the new district does not satisfy this requirement, the territory shall be re-incorporated in the district or districts in which it was located before the creation of such new district, and the trustees shall, thereafter, be without capacity to act.

Trustees may request change of high school boundaries.

Section 178. Section 75-6519. **Methods of changing high school district boundaries.** The trustees of any high school district, except the trustees of a high school located in a county which has not been divided into high school districts or become a high school district by county high school unification, may request a change of the high school boundaries of their district or county as provided by this section.

Resolution.

Description.

Reasons.

Limitations.

Whenever the trustees of a high school district shall pass a resolution requesting the change of their district's boundary or the redivision of the county into high school districts, they shall send such resolution to the county superintendent. When the trustees request a boundary change of their district or a redivision of the county into high school districts, they shall describe the requested boundary change or redivision and give the reasons therefor. A requested boundary change of a district shall conform to one of the following types: (1) consolidation of high school districts shall be the merging of two (2) or more high school districts to form a single high school district;

Annexation.

(2) annexation shall be the attachment of all the territory of a high school district to another high school district or districts;

HeinOnline -- 1971 vol. I 162 1971

(3) transfer of territory shall be the detachment of territory from a high school district and the attachment of such territory to another high school district or districts; or

Transfer of territory.

(4) creation of a new high school district shall be the formation of a new high school district from the territory presently incorporated in the requesting high school district.

Creation—new high school district.

Whenever the trustees of any high school district request a boundary change or a redivision that would create a joint high school district or, in any way, affect the boundary of an existing joint high school district, they shall send the boundary change resolution to the county superintendent of each county that would be affected by such boundary change.

Boundary change resolution.

Section 179. Section 75-6520. **Establishment of high school districts in a county.** The trustees of a high school located in a county, which has not been divided into high school districts or become a high school district by county high school unification, may request the division of the county into a high school district or districts. The request shall be sent to the county superintendent. A high school district or districts shall not be created in a county having a population of more than forty-five thousand (45,000), based on the United States census of 1930.

Trustees may request division of county into high school districts.

Limitation.

Section 180. Section 75-6521. **High school boundary commission and boundary change, division or redivision hearing procedure.** Each county of the state of Montana shall have a high school boundary commission consisting of the board of county commissioners and the county superintendent. Whenever a county superintendent receives a resolution from the trustees of any high school district requesting a boundary change or a request to divide or redivide the county into high school districts, he shall immediately notify the high school boundary commission. Such commission shall set a time, date, and place for a public hearing on the request. The hearing shall be set for a date within sixty (60) days after the receipt of the request and any interested person may appear and be heard on such request. The county superintendent shall send a written notice of the public hearing on a requested boundary change, division, or redivision to the trustees of each elementary and high school district of the county which

Boundary commission.

Notice.

Hearing within 60 days.

Notices.

HeinOnline -- 1971 vol. I 163 1971

has territory that would be affected by the change. The county superintendent shall also give notice of such public hearing in accordance with the requirement for school election notices prescribed by school election provisions of this title. The certificate of the county superintendent filed with the high school boundary commission reciting that such notice requirements have been satisfied shall be conclusive.

Certificate conlusive.

Considerations.

In considering a request to change high school district boundaries or to divide or redivide the county into high school districts, the high school boundary commission shall give primary consideration to the convenience of the high school pupils of the territory under consideration. Such commission also shall consider the grouping of elementary districts to be encompassed by a high school district or districts, and shall group contiguous elementary districts within a high school district unless obstacles of travel such as mountains, rivers, impractical routes of travel, or distance make such grouping impractical. After the hearing the high school boundary commission may grant or deny any request, made under the provisions of section 75-6519, for a high school district boundary change, but shall order the division of the county into high school districts whenever requested under the provisions of section 75-6520. In the latter case the commission's discretion shall extend only to the establishing of boundaries for the newly created high school district or districts.

Convenience.

Grouping of districts.

Travel.

Terrain.

Order.

Establishing of boundaries.

Section 181. Section 75-6522. **Approval of high school district boundary when elementary district territory divided by commission.** If the order of a high school boundary commission would divide the territory of any elementary district between two (2) or more high school districts or would divide the territory of a joint elementary district which is located within the county between high school districts, the county superintendent shall, under the provisions of section 75-6406, order the trustees of such elementary district to call an election. The election shall be called and conducted in the manner prescribed in this title for school elections. An elector who may vote on the proposition shall be qualified under the provisions of section 75-6410. If the election is required because of the division of the territory of a joint elementary district located in the county, the electors shall be residents of such territory. If a majority of the electors voting at such election approve the division

Divided districts.

Order to call election.

Elector qualifications.

Majority approval.

HeinOnline -- 1971 vol. I 164 1971

of the elementary district or the county's territory in a joint elementary district, the order of the high school boundary commission shall be approved. If a majority of the electors voting at such election do not approve such division, the high school boundary commission shall reconsider its action and shall establish different high school boundary lines, subject to the same limitations herein described.

Nonapproval.

Procedure.

Section 182. Section 75-6523. **Counter proposed high school district boundaries by electors and election.** Whenever a high school boundary commission issues an order to change high school district boundary lines, twenty per cent (20%) or more of the electors of any elementary district with territory affected by the high school boundary change who are qualified to vote under the provisions of section 75-6410 may protest the boundaries established by the order of the commission within thirty (30) days after the date of such order. Such protest shall be in the form of a petition addressed to the county superintendent and it shall provide a counter proposition to the new high school boundaries established by the order of the commission for the disposition of the territory of the elementary district for high school districting purposes. The provisions of this section shall not be used in elementary districts that have approved high school boundaries under the provisions of section 75-6522.

20% of electors may protest boundary change within 30 days.

Petition to county superintendent counter proposition.

Limitation.

When the county superintendent receives a valid petition from an elementary district, he shall, within ten (10) days after the receipt of such petition, and as provided by section 75-6423, order the trustees of such elementary district to call an election to consider the high school boundary counter proposition described in such petition. The trustees shall call and conduct the election in the manner prescribed in this title for school elections. An elector who may vote on the proposition shall be qualified to vote under the provisions of section 75-6410. If a majority of the electors voting at the election approve the counter proposition, the high school boundaries described by the counter proposition shall be approved, and the order of the high school boundary commission shall be amended to establish such high school boundaries. If a majority of the electors voting at such election disapprove the counter proposition, the order of the high school boundary commission shall be confirmed and shall be final.

Order to call election.

Conduct.

Election qualifications.

Majority approval of counter proposition.

Nonapproval.

Order confirmed.

HeinOnline -- 1971 vol. I 165 1971

County superintendent may order abandonment of high school district.

Section 183. Section 75-6524. **High school district abandonment.** Within six (6) months after a high school district fails to operate an accredited high school within its boundaries for a period of one (1) year, the county superintendent shall order the high school district abandoned. At least twenty (20) days before issuing an abandonment order, the county superintendent shall notify the trustees of the high school district of the impending abandonment. When the order is issued, the county superintendent also shall order the attachment of the territory of each elementary district of the abandoned high school district to another high school district or districts of the county.

Notice.

Order of attachment.

Boundaries may establish joint high school district.

Section 184. Section 75-6525. **Limitations for organization of joint high school district.** The boundaries of any high school district which encompass a county's portion of a joint elementary district where an elementary school is operated may be changed to establish a joint high school district. Such high school district boundary change shall be a transfer of all the territory located in another county's portion of the same joint elementary district. No such boundary change shall be made when: (1) the territory transfer would reduce the taxable value of the taxable property of another high school district to less than seven hundred fifty thousand dollars ($750,000); or

Limitations.

Taxable value reduced.

(2) a portion of the territory to be transferred is less than three (3) miles from an operating, accredited high school located in another high school district.

3 mile limit.

Procedure.

Section 185. Section 75-6526. **Procedure for organization of joint high school district.** The high school district boundary changes permitted under section 75-6525 shall be made according to the following procedure: (1) A majority of the electors of a joint elementary district who are qualified to vote under the provisions of section 75-6410 and who reside in a county where the elementary school is not located may petition the county superintendent of their resident county to transfer the territory of the joint elementary district where they reside to establish a joint high school district. Such petition also shall state the reasons for requesting such a boundary change and the number of high school pupils residing in the territory.

Majority may petition.

Reasons.

Number of high school pupils.

(2) When the county superintendent receives a valid petition requesting the establishment of a joint high school

HeinOnline -- 1971 vol. I 166 1971

district, he shall set a time, date, and place for a public hearing on the request which is not more than forty (40) days after the receipt of the petition. He shall give notice of such hearing in accordance with the election requirements for school election notices prescribed by school election provisions of this title. The county superintendent shall also notify the county superintendent of the county where the high school is located and the trustees of the high school district.

Hearing within 40 days.

Notices.

(3) The county superintendent shall hear the request to change the high school district boundaries at the place, time, and date set for the hearing, and any interested person may appear and be heard on the request. If the county superintendent deems it advisable and in the best interests of the residents of the territory to be transferred, he shall grant the petitioned request and order the change of high school boundaries to establish a joint high school district. Otherwise, he shall, by order, deny the request.

Conduct of hearing.

Order to establish joint high school district.

(4) If the county superintendent orders the establishment of a joint high school district, he shall immediately send the order to the county superintendent of the county where the high school is located. If the county superintendent of such county approves the order, he shall send such order to the trustees of the high school district. If the trustees approve the order, the boundary change shall become effective. Without the approval of such county superintendent and trustees, the boundary change shall fail.

Approval required.

(5) At any time within thirty (30) days after the date of the county superintendent's order to grant or deny the request to establish a joint high school district, an appeal may be made to the board of county commissioners of the county in which the petition originated. The board of county commissioners shall conduct a hearing for the appeal, and their decision shall be final, subject to the approvals required by subsection (4).

Appeal within 30 days.

Hearing.

Board decision final.

Section 186. Section 75-6527. **High school district consolidation by board of county commissioners.** The board of county commissioners of any county shall have the authority to consolidate any two or more high school districts of the county whenever it appears to them that it would be for the best interest of the pupils and other residents of the districts and the county. The board of county commissioners shall have complete responsibility and authority to de-

Board may consolidate high school districts.

Authority to determine.

HeinOnline -- 1971 vol. I 167 1971

termine all questions involved in effecting the consolidation of the high school districts, except that before it shall become effective any such boundary change shall be approved by the superintendent of public instruction.

Exception.

Section 187. Section 75-6528. **High school district boundary approval by superintendent of public instruction.** Whenever a high school boundary commission orders changes in high school district boundaries or a division or redivision of the county under the provisions of this title, its order shall not be final until it has been approved by the superintendent of public instruction. The superintendent of public instruction shall not approve any high school boundary commission order that: (1) is dated less than one (1) year since the last high school boundary commission order was approved for such county;

Boundary commission orders—approval by state superintendent.

Limitations on approvals.

(2) has not been confirmed by the high school boundary commission of each county affected by the boundary change when it involves a joint high school district; or

(3) does not provide for the high school district boundaries approved by the electors of an elementary district under the provisions of sections 75-6522 or 75-6523.

Section 188. Section 75-6529. **Bonded indebtedness against original territory except when assumed by election.** Whenever district boundaries are changed in any manner prescribed in this title, the existing bonded indebtedness against any district or territory affected by a change of boundaries shall remain the indebtedness of the original territory against which such bonds were issued and shall be paid by levies on the original territory; except when elementary districts are consolidated with the mutual assumption of bonded indebtedness or when an elementary district is annexed with a joint assumption of the annexing district's bonded indebtedness with the annexing district. Any monies to the credit of the debt service fund of a district when its boundaries are changed shall be used to pay the existing bond principal and interest of the original territory issuing such bonds as it becomes due or for bond redemption under the bonding provisions of this title.

Bonded indebtedness not affected unless mutually assumed.

Use of monies—debt service funds.

Section 189. Section 75-6530. **Property tax valuation after district boundary change.** The property tax valuation used under the provisions of section 75-6717 for the purposes of fixing the tax levies, except the debt service

Property tax valuation on boundary changes.

HeinOnline -- 1971 vol. I 168 1971

fund tax levy, for a district that has had a boundary change at any time before the second Monday in August shall include the property tax valuation of any territory added to the district by such boundary change, or exclude the property tax valuation of any territory detached from the district by such boundary change.

Section 190. Section 75-6531. **Trustees of district affected by boundary change.** The trustees of any district to which the territory of another district is attached as a result of annexation, abandonment, joint district dissolution, territory transfer, or any other method of changing district boundaries except by the consolidation of elementary districts or by the creation of a new elementary district shall continue to be the trustees of such district with the same powers, duties, and responsibilities and subject to the same limitations provided by law, as if there had been no boundary change. In the case of elementary district consolidation or the creation of a new elementary district, the appointed trustees of the resulting elementary district shall assume their trustee positions under the authority of section 75-6506 or section 75-6517, whichever is applicable.

Trustees shall continue in office.

Exceptions.

Appointed trustees.

Section 191. Section 75-6532. **Cash disposition when district ceases to exist.** Whenever a district shall cease to exist in any manner prescribed in this title except when districts are consolidated, the cash on hand to the credit of the funds of the district and the debts of such district shall be allocated in the following manner: (1) Any cash to the credit of the district shall be used to pay any debts of the district, including bonded indebtedness, except that any cash available in the debt service fund shall be used first to pay bond interest and all outstanding bonds.

District ceasing to exist—disposition of cash.

Payment of debts.

(2) If any cash remains to the credit of the district after paying its debts, the cash shall be transferred by the county treasurer to the credit of the district or districts assuming its territory.

Transfer.

When the territory is assumed by more than one district, the remaining cash shall be prorated between the districts on the basis of the number of census children residing within the territory assumed by each district as determined by the county superintendent.

Prorated.

(3) If any debts, other than bonded indebtedness remain as an obligation of the district after the cash has been

HeinOnline -- 1971 vol. I 169 1971

Assignment.

utilized under the provisions of subsection (1) above, the debts shall be assigned in the same manner prescribed for the transfer of cash under subsection (2) above.

Consolidated districts—disposition of cash.

Section 192. Section 75-6533. **Cash disposition when districts consolidated.** Whenever two (2) or more districts are consolidated without the mutual assumption of bonded indebtedness, all cash and debts, other than cash credited to the debt service fund and debts for bonded indebtedness, shall be credited or debited to the same types of funds of the consolidated district as the funds from which they were transferred by the county treasurer. In addition when two (2) or more elementary districts are consolidated with the mutual assumption of bonded indebtedness, the cash credited to the debt service fund and the bonded indebtedness also shall be transferred to a similar fund of the consolidated district.

Transfer to same type of funds.

Transfer to similar fund.

Newly created district—disposition of cash.

Section 193. Section 75-6534. **Cash disposition when new elementary district created.** Whenever a new district is created, under the provisions of section 75-6518, the end-of-the-year cash balance in each fund of each district having territory that has been placed in the new district, except the debt service fund, shall be apportioned by the county superintendent on the basis of the proportion that the number of school census children residing in the new district is of the total number of school census children residing in the old district before the creation of the new district. After the new district has operated a school for one (1) month, the county superintendent shall order the county treasurer to transfer the cash to which the new district is entitled to the credit of the fund of the new district which corresponds with the fund from which it was transferred. The new district shall not assume any debts of the old district other than existing bonded indebtedness which remains an obligation against the taxable property of the territory included in the new district.

Apportionment.

After one month—order to transfer.

Retention of cash.

Section 194. Section 75-6535. **No cash disposition when territory transfer.** Whenever only a portion of the territory of one district is transferred to another district, all cash and debts, other than bonded indebtedness, shall be retained by the district originally realizing the cash or debt.

Title to property vests in district of situs.

Section 195. Section 75-6536. **Property disposition when district boundaries changed.** Whenever district boundaries are changed, title to the real and personal prop-

HeinOnline -- 1971 vol. I 170 1971

erty of the districts involved in such boundary change shall vest in the district which encompasses the territory where such real or personal property was located at the time the legal procedure to authorize the boundary change was introduced. The disposition or utilization of such property will be in the discretion of the trustees of the district encompassing the territory of its location, as provided by law.

Section 196. Section 75-6537. **Surrender of records when district ceases to exist.** Within ten (10) days after any district ceases to exist, the trustees shall surrender all minutes, documents, and other records of the district to the trustees of the district assuming its territory or, if more than one (1) district assumes its territory, to the county superintendent.

District ceasing to exist—duty to surrender records.

Section 197. Section 75-6538. **County high school unification.** Any county high school may be unified with the elementary district where the county high school building is located to establish a unified school system under a unified board of trustees. If the county has not been divided into high school districts, a high school district with boundaries coterminous with the county boundaries shall be created, except that such high school district shall not include the territory of any existing joint high school district located in the county. The territory of an existing joint high school district shall remain a part of such joint high school district. The creation of high school districts under this provision shall be in lieu of the high school district division provisions of section 75-6520.

Unified school system.

Creation.

Exceptions.

A proposition to unify a county high school with the elementary district where the county high school building is located shall be introduced whenever: (1) the trustees of the county high school and the trustees of the elementary district individually pass resolutions requesting the county superintendent to order an election to consider a unification proposition; or

Proposition to unify.

Resolutions of trustees.

(2) not less than twenty per cent (20%) of the electors of the county or, if the county has been divided into high school districts, the electors of the high school district where the county high school is located, and who are qualified to vote under the provisions of section 75-6410, petition the county superintendent to order an election to consider a unification proposition.

20% of electors.

Petition.

HeinOnline -- 1971 vol. I 171 1971

Within 10 days.

When the county superintendent has received the trustees' resolutions or a valid petition, he shall, within ten (10) days after the receipt of the last resolution or petition

Order to call election.

and under the provisions of section 75-6406, order the county high school to call an election to consider a unification proposition. The trustees of the county high school shall call and conduct an election in the manner prescribed

Elector qualifications.

in this title for school elections. An elector who may vote on the unification proposition shall be qualified to vote

Ballot form.

under the provisions of section 75-6410. The ballot for a county high school unification proposition shall be substantially in the following form:

OFFICIAL BALLOT

COUNTY HIGH SCHOOL UNIFICATION ELECTION

Shall ..... County High School be unified with District No. ....., ... County to establish a unified school system under a unified board of trustees?

☐ FOR the unification of the county high school.

☐ AGAINST the unification of the county high school.

Certificate.

Order declaring unification.

When the county superintendent receives the election certificate from the trustees of the county high school, he shall issue an order declaring the unification of the county high school with the elementary district identified

July 1.

on the ballot as of the next succeeding July 1, if a majority of those electors voting at such election have voted for the unification proposition.

Order of disapproval.

If a majority of those electors voting at the election have voted against the unification proposition, he shall order the disapproval of the unification proposition.

Section 198. Section 75-6539. **Transactions after approved county high school unification.** Whenever a county high school is unified with the elementary district where

Mandatory transactions July 1.

the county high school building is located, the following transactions shall be completed on or before the first of July when the unification becomes effective: (1) The high school boundary commission, without the approval

Order of creation.

of the superintendent of public instruction, shall order the creation of a high school district if the county has not already been divided into high school districts.

HeinOnline -- 1971 vol. I 172 1971

Surrender of records.

(2) The county high school trustees, who shall not have the capacity to govern the high school district upon unification, shall surrender all minutes, documents and other records of the county high school to the trustees of the high school district.

Additional nominating areas.

(3) The county superintendent shall order the establishment of additional high school trustee nominating areas in the manner prescribed in sections 75-5903 and 75-5904, if requested to do so by a majority of the outlying elementary districts located in the high school district. When the county superintendent establishes such areas, he shall appoint additional high school district trustees from each area who shall hold office until a successor is elected at the next regular school election and qualified.

Appointment additional trustees.

Transfer of cash balances.

(4) The county treasurer, after allowing for any outstanding or registered warrants, shall transfer all end-of-the-year fund cash balances of the county high school to similar funds established for the high school district. All previous years' taxes levied and collected for the county high school shall be credited to the appropriate fund of the high school district.

Prior taxes.

Deeds of conveyance.

(5) The board of county commissioners shall execute, in the name of the county, all necessary and appropriate deeds, bills of sale and other instruments for the conveyance of title to all real and personal property of the county high school, including all appurtenances and hereditaments, to the high school district.

Outstanding county high school bonds.

All county high school bonds outstanding at the time of unification shall remain the obligation of the county or that portion of the county against which the bonds were originally issued. The high school district shall be responsible for the maintenance of the debt service fund for such bonds. It shall be the duty of the board of county commissioners and the trustees of the high school district to perform the duties prescribed in the school budgeting and bond redemption provisions of this title for the redemption and interest payments of the county high school bonds in the same manner and by the same means as though the county high school had not been unified.

Duties of board of county commissioners.

Definitions.

Section 199. Section 75-6601. **Definition of various schools.** As used in this title, unless the context clearly

HeinOnline -- 1971 vol. I 173 1971

"School." indicates otherwise, the term "school" means an institution for the teaching of children that is established and maintained under the laws of the State of Montana at public expense.

District trustees shall designate assignments. The trustees of any district shall designate the grade assignments for the schools of the district but for the purposes of this title each school shall be known as:

Elementary school defined. (1) an elementary school when it comprises the work of any combination of kindergarten, other preschool programs or the first eight (8) grades, or their equivalents, except when an accredited junior high school or an accredited six-year high school is operated by the district, grades seven (7) and eight (8), or their equivalents, shall not be considered as elementary grades; or

High school defined. (2) a high school when it comprises the work of one (1) or more grades of school work, or their equivalents, intermediate between the elementary schools and the institutions of higher education of the State of Montana. Types of high schools shall be designated as follows:

Junior high school defined. (a) a junior high school is a school comprising the work of grades seven (7) through nine (9), or their equivalents, that has been accredited as a junior high school under the provisions of section 75-7502;

Senior high school defined. (b) a senior high school is a school which comprises the work of grades ten (10) through twelve (12), or their equivalents, and which is operated in conjunction with a junior high school;

Six-year high school defined. (c) a six-year high school is a school comprising the work of grades seven (7) through twelve (12), or their equivalents, that has been accredited as a six-year high school under the provisions of section 75-7502;

Four-year high school defined. (d) a four-year high school is a school comprising the work of grades nine (9) through twelve (12), or their equivalents;

County high school defined. (e) a county high school is a four-year high school operated as an agency of county government and established under the provisions of the acts of March 3, 1899, March 14, 1901 and any subsequent amendments thereto; or

Post-secondary vocational-technical center. (f) a post-secondary vocational-technical center established under the provisions of section 75-7707.

HeinOnline -- 1971 vol. I 174 1971

Unless otherwise required by law, the trustees of an elementary district in which a high school is located and the trustees of the high school district operating such high school may organize the schools of their districts to form a kindergarten through grade twelve (12) school system, provided that the high school and elementary trustees shall not assume responsibility for the administration of grades which are not properly within their jurisdiction.

Kindergartens authorized.

Section 200. Section 75-6602. **Opening or reopening of elementary school.** The trustees of any elementary district may open or reopen an elementary school of the district when such opening or reopening has been approved in accordance with the following procedure: (1) The parents of at least three (3) pupils who would attend the opened or reopened school petition the trustees of the district to open or reopen a school during the ensuing school fiscal year. Such petition shall identify the school, state the reasons for requesting the opening or reopening, and give the names of the children who would attend such school.

Trustees may open elementary school.

Procedure.

Parents petition to trustees.

(2) If the trustees approve the opening or reopening of a school, they shall send the petition with a copy of their approval resolution to the county superintendent. The county superintendent shall review the petition to determine if the average number belonging (ANB) of such school would be five (5) or more.

Trustees resolution.

Review by county superintendent. ANB—5 or more.

(3) The county superintendent shall present the petition, trustees' approval, and his findings on the probable ANB to the board of county commissioners (budget board) for their consideration. The budget board shall deny the opening or reopening of any school if the county superintendent's enrollment estimate for such school is less than five (5) ANB. In all other cases, the budget board may approve or disapprove the requested opening or reopening of the elementary school.

Budget board—denial.

May approve.

(4) If the budget board approves a school opening or reopening, the county superintendent shall send a copy of such approval, along with the petition, trustees' approval, and his estimate of the probable ANB to the superintendent of public instruction. The superintendent of public instruction shall approve or disapprove the requested opening or reopening of the elementary school. If the

State superintendent may approve.

HeinOnline -- 1971 vol. I 175 1971

opening or reopening is approved, the superintendent of public instruction shall approve or adjust the ANB estimate of the county superintendent for such school and such ANB amount shall be used for budgeting and foundation program purposes during the ensuing school fiscal year. No ANB amount shall be approved for the ensuing school fiscal year for an opening or reopening school when the request for such school has not been received by the superintendent of public instruction before the fourth Monday of June.

Nonapproval.

4th Monday of June.

Section 201. Section 75-6603. **Opening or reopening of a high school.** The trustees of any high school district may open or reopen a high school of the district or a branch of a high school of the district when such opening or reopening has been approved by the superintendent of public instruction; except when a county high school is discontinued by a unification action, the trustees may establish, by resolution, a high school to be operated by the high school district without further action or approval. When the trustees of a high school district resolve to open or reopen a high school, they shall apply to the superintendent of public instruction for approval to open or reopen such school by the first day of June before the school fiscal year in which they intend to open or reopen the high school. Such application shall: (1) state their reasons why the high school should be opened or reopened;

Trustees may open high school.

Resolution.

Application for approval—June 1.

Required statements.

(2) the probable enrollment of such high school;

(3) the distance and road conditions of the route to neighboring high schools;

(4) the taxable value of the district;

(5) the building and equipment facilities available for such high school;

(6) the planned course of instruction for such high school;

(7) the planned methods of complying with high school standards of accreditation; and

(8) any other information that may be required by the superintendent of public instruction.

Investigation.

The superintendent of public instruction shall investigate the application for the opening or reopening of a

HeinOnline -- 1971 vol. I 176 1971

high school and shall approve or disapprove the opening of the high school before the fourth Monday of June preceding the first year of intended operation. If the opening is approved, the high school district trustees may open such high school.

4th Monday in June.

Whenever the opening or reopening of a high school is approved for the ensuing school fiscal year, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the high school. The ANB determined by the county superintendent shall be used for budgeting and foundation program purposes.

Estimate of ANB.

Purpose.

Nothing herein contained shall be construed so as to preclude the trustees of a high school district from establishing more than one (1) high school in the district.

More than one high school.

Section 202. Section 75-6604. **Opening of a junior high school.** The trustees of any elementary district and the trustees of the high school district in which such elementary district is located may open a junior high school when such opening has been approved by the superintendent of public instruction; except that when the high school district operates a county high school, the opening of a junior high school shall be approved under the provisions of section 75-6605.

Trustees may open junior high school—approval.

When the trustees of such districts resolve to open a junior high school, they shall jointly apply to the superintendent of public instruction for approval to open such school by the first day of June before the school fiscal year in which they intend to open the junior high school. The application shall contain such information as is required under section 75-6603 for an application to open a high school.

Procedure.

Application.

June 1.

Required statements.

The superintendent of public instruction shall investigate the application for the opening of a junior high school and shall approve or disapprove the opening of the junior high school before the fourth Monday of June preceding the first year of intended operation. If the opening is approved, the trustees of the elementary district and the high school district may jointly open such school.

Investigation.

Approval or disapproval 4th Monday in June.

Whenever the opening of a junior high school is ap-

HeinOnline -- 1971 vol. I 177 1971

Estimate of ANB. proved for the ensuing school fiscal year, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the junior high school. The ANB determined by the county superintendent shall be used for budgeting and foundation program purposes during the ensuing school fiscal year.

Purpose.

Section 203. Section 75-6605. **Opening a junior high school when high school district operates a county high school.** Whenever the trustees of an elementary district and a high school district operating a county high school have formed a joint board of trustees under the provisions of section 75-5928, such joint board of trustees may open a junior high school under the provisions of this section.

Joint board may open junior high school.

Procedure.

When the joint board of trustees resolve to open a junior high school, they shall order an election under the provisions of section 75-6406 to submit a proposition to the electors of the district to approve or disapprove the trustees resolution to open a junior high school. The joint board of trustees shall call and conduct the election in the manner prescribed in this title for school elections and equally share the cost of the election. Any elector qualified to vote under the provisions of section 75-6410 may vote on the proposition. If a majority of the electors voting at the election approve the proposition, the trustees shall apply to the superintendent of public instruction for approval to open a junior high school. If a majority of the electors voting at the election disapprove the proposition, a junior high school shall not be opened by the joint board of trustees.

Election.

Conduct of election.

Elector qualifications.

Application submitted by June 1.

The application to the superintendent of public instruction for the approval to open a junior high school shall be submitted by the first day of june following the election approving the opening of the junior high school. The application shall contain such information as is required under section 75-6603 for an application to open a high school.

Required statements.

Investigation.

The superintendent of public instruction shall investigate the application for the opening of a junior high school and shall approve or disapprove the opening of the junior high school before the fourth Monday of June preceding the first year of intended operation. If the

Decision prior to 4th Monday of June.

HeinOnline -- 1971 vol. I 178 1971

opening is approved, the joint board of trustees may open the junior high school.

At any time the trustees of the elementary district and the trustees of the high school district shall cease to form a joint board of trustees under the provisions of section 75-5928, the junior high school shall be closed and the districts shall assume the provision of an educational program for the junior high school pupils of their respective districts.

Termination of joint board.

Closing.

Section 204. Section 75-6606. **Budgeting and cost sharing when junior high school operated by elementary district and high school district operating a county high school.** Whenever the opening of a junior high school is approved for the ensuing school fiscal year under the provisions of section 75-6605, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the junior high school. The ANB determined by the county superintendent and the ANB actually realized in subsequent school fiscal years shall be applied under the provisions of subsection (10) of section 75-6905 to prorate the maximum-general-fund-budget-without-a-voted-levy between the elementary and high school districts. Each district shall adopt its general fund budget on the basis of such prorated amount and shall finance its proportionate share of the cost of operating the junior high school.

Estimate ANB.

Prorated budget.

The cost of operating the junior high school shall be prorated between the elementary district and the high school district on the basis of the ratio that the number of pupils of their district is to the total enrollment of the junior high school.

Basis of ratio.

Section 205. Section 75-6607. **School closure.** When it is in the best interest of the pupils affected, the trustees of any district shall have the power and authority to close any school of the district, except that the closure of a junior high school shall be closed jointly by the trustees of the elementary district and the high school district in which the school is located. Whenever the trustees of a district close a school of the district, they shall provide the pupils of the closed school with transportation and tuition, if required, to other schools in accordance with the provisions of this title.

Trustees authority to close schools.

Transportation and tuition.

Section 206. Section 75-6608. **School isolation.** The

HeinOnline -- 1971 vol. I 179 1971

Isolated school classification.

trustees of any district operating an elementary school of less than ten (10) ANB or a high school of less than twenty-five (25) ANB shall apply to have the school classified as an isolated school. The application shall be submitted by the trustees to the county superintendent by the first day of May each year. Such application shall include: (1) the name of each pupil who will attend the school during the ensuing school fiscal year with the distance the pupil resides from the nearest county road or highway; and

May 1.

Application statements.

(2) a description of conditions affecting transportation such as poor roads, mountains, rivers, or other obstacles to travel, the distance the school is from the nearest open school having room and facilities for the pupils of such school, or any other condition that would result in an unusual hardship to the pupils of the school if they were transported to another school; and

(3) any other information prescribed by the superintendent of public instruction.

Submission to budget board before June 15.

The county superintendent shall submit the applications to the board of county commissioners (budget board) for their consideration on or before the fifteenth (15th) day of June. The budget board shall approve or disapprove the application on the basis of the existence of unusual obstacles to travel or the unusual distance to the nearest open school having room and facilities for the pupils of such school. The budget board also may approve an application because of the existence of other conditions which would result in an unusual hardship to the pupils of such school if they were transported to another school.

Approval or disapproval—basis.

Review.

When an application is approved because of conditions other than obstacles to travel or the unusual distance to the nearest open school having available room, the county superintendent shall review such application and approve or disapprove it. If the county superintendent approves the isolated classification, he shall send the application indicating his approval and the budget board's approval to the superintendent of public instruction before the fourth Monday of June. The superintendent of public instruction shall approve or disapprove such application for isolated classification.

4th Monday in August.

Decision of state superintendent.

Section 207. Section 75-6701. **Application of budget**

HeinOnline -- 1971 vol. I 180 1971

system for districts. The school budgeting procedure and provisions of this title shall apply to elementary, high school and community college districts, and to all funds requiring the adoption of a budget. Each district shall separately propose and adopt a budget in accordance with the requirements of this title.

Budgeting procedures.

Separate budgets.

Section 208. Section 75-6702. **General supervision of school budgeting system.** The superintendent of public instruction shall have general supervision over the school budgeting procedure and provisions prescribed by law and shall have the duty to establish such regulations as are necessary to secure compliance with the school budgeting laws.

General supervision.

Regulations.

Section 209. Section 75-6703. **Board of school budget supervisors.** There shall be a board of school budget supervisors in each county of the state. The board of county commissioners shall constitute such board and in that capacity shall exercise the powers and duties prescribed by law. The clerk of the board of school budget supervisors shall be the county superintendent whose office shall be the office of such board.

County board of school budget supervisors. Composition.

Clerk—county superintendent.

As used in this title, unless the context clearly indicates otherwise, the term "budget board" means the board of school budget supervisors of a county.

"Budget board" defined.

Section 210. Section 75-6704. **School budget form.** The format of the school budget form shall be prescribed by the superintendent of public instruction and shall provide for proper school budgeting procedures in accordance with the budgeting requirements of this title and generally accepted accounting principles. The superintendent of public instruction shall cause a sufficient number of the budget forms to be printed for use by all districts for each school fiscal year.

Budget forms.

Printing.

Each district shall use the budget forms prescribed by the superintendent of public instruction except that a district may, with the approval of the superintendent of public instruction, use a more detailed form.

More detailed form.

Section 211. Section 75-6705. **Initial budget items for completion and estimated budgeting authority.** During the month of March, the county superintendent shall complete the portions of the budget form providing information about the last completed school year and, separate

March budget duties of county superintendent.

HeinOnline -- 1971 vol. I 181 1971

April 10 duties.

from the budget form, estimate the maximum amount to be available for the general fund budget in the ensuing year without an additional levy. By the tenth day of April, the county superintendent shall send to each district two (2) copies of the budget form, the general fund estimate, and any other information or data as may be required by the superintendent of public instruction or that the county superintendent may deem necessary.

District completion.

Upon receipt of the budget forms, the district shall complete those portions of them which require information about the then-current school year.

May publication of notice of meeting to adopt preliminary budget.

4th Monday in June.

Section 212. Section 75-6706. **Notice of preliminary budget meeting.** During the month of May, the county superintendent shall publish a notice at least one (1) time in the official newspaper of the county stating that the trustees of each district in the county will meet in regular session on the fourth Monday in June to prepare and adopt a preliminary budget for the next ensuing school fiscal year and that any taxpayer in the district may attend such meeting and be heard on such preliminary budget.

Meeting—4th Monday in June.

5 day limitation.

Taxpayer may attend.

Section 213. Section 75-6707. **Preparation and adoption of preliminary budget by trustees.** The trustees of each district shall meet at their regular place of meeting on the fourth Monday in June to adopt a preliminary budget for the next ensuing school fiscal year. This budget meeting may be continued from day to day but shall not exceed five (5) days in total. Any taxpayer in the district may attend such meeting and be heard in regard to the preliminary budget or any item or amount proposed to be included in such budget. The preliminary budget shall include all funds which require the adoption of a budget and which the trustees wish to utilize during the ensuing year.

Proposed expenditures.

Limitation on amount.

Separate listing.

The proposed expenditures adopted as the preliminary budget shall be entered on the appropriate portion of the budget form. The amount of the preliminary general fund budget for a district shall not exceed the foundation program of such district except in the manner permitted by the laws of Montana. If any appropriation item of the preliminary budget provides for the payment of wages or salaries to more than one (1) person, the district shall attach to the preliminary budget a separate listing of

HeinOnline -- 1971 vol. I 182 1971

each position of employment with the budgeted amount of compensation for each position.

After the adoption of the preliminary budget by the trustees, the chairman of the trustees and the clerk of the district shall sign the budget form and it shall constitute the preliminary budget for the district. The trustees shall send both copies of the adopted preliminary budget with all appendages and any other information required by law to the county superintendent on or before the fifth day after the fourth Monday of June.

Chairman and clerk shall sign.

Submission to county superintendent.

Section 214. Section 75-6708. **Preparation of preliminary budget by county superintendent if no budget submitted.** If for any reason the trustees of any district fail to prepare and submit a preliminary budget to the county superintendent before the tenth day of July, the county superintendent shall prepare a preliminary budget for the district in the manner provided by law and shall note on the budget form the specific reasons why he has prepared it. For all purposes thereafter, such preliminary budget shall be considered to have been adopted by the trustees of the district in the regular manner.

Failure of trustees—July 10.

County superintendent shall prepare.

Section 215. Section 75-6709. **Notice of preliminary budget filing and final budget meeting.** Between the tenth and twentieth days of July of each year, the county superintendent shall publish notice one (1) time in the official newspaper of the county stating that the preliminary budgets for all districts in the county for the school fiscal year just beginning, as prepared and adopted by the respective trustees, are on file in his office and that such budgets are open to inspection of all taxpayers. The notice shall also state that the board of school budget supervisors of the county will meet at 10 a.m. on the fourth Monday in July for the purpose of considering and adopting the final budget of each district, that the meeting of such budget board may be continued from day to day until the final adoption of all the districts' budgets, and that any taxpayer in a district may appear at such budget board meeting and be heard for or against any part of the budget of his district.

Between July 10 and 20.

Publication of notice.

Meeting for adoption of final budget.

Section 216. Section 75-6710. **County treasurer's statement of cash balances and bond information.** By the tenth day of July, the county treasurer shall prepare a statement for each district showing the amount of cash on hand for each fund maintained by the district and the

Treasurer's statement of cash on hand for each district—July 10.

HeinOnline -- 1971 vol. I 183 1971

amount of the outstanding obligations against each fund at the close of the last completed school fiscal year. The county treasurer shall also include on each district's statement the details on the obligation for bond retirement and interest for the school fiscal year just beginning. The format of the statement on fund cash balances and bond information shall be prescribed by the superintendent of public instruction.

Bond obligations and interest.

Format.

By the tenth day of July, the county treasurer shall prepare a statement for each county school fund supported by county-wide levies, showing the amount of cash on hand at the beginning of the school fiscal year, the receipts and apportionments, and the amount of cash on hand at the end of the school fiscal year, for each county school fund maintained during the immediately preceding school fiscal year. The format of this statement shall be prescribed by the superintendent of public instruction.

Treasurer's statement for each fund—July 10.

Format.

On or before the tenth day of July, the county treasurer shall deliver the statements of district and county fund cash balances and the bond information for each district to the county superintendent who shall attach such district statements to the applicable district's preliminary budget.

July 10 statements to county superintendent.

Section 217. Section 75-6711. **County assessor's of district, cities and towns valuations.** By the second Monday of July, the county assessor of each county shall, at the time of delivering the completed assessment book to the county clerk under the provisions of section 84-505, R.C.M., 1947, also deliver to the county superintendent and to each city or town clerk a statement showing separately for each district and each city or town in his county, the total assessed value and the total taxable value of all property in such districts, cities or towns, as these valuations appear in such completed assessment book.

County assessor's statement—assessed and taxable value of property—second Monday in July.

The county clerk shall, after the second Monday in August and before or at the time of delivering the assessment book to the county assessor under the provisions of section 84-4006, R.C.M., 1947, prepare a statement showing separately for each district and each city or town in his county, the total assessed value and the total taxable value of all property in such districts, cities, or towns, as these valuations appear in the assessment book after

County clerk's statement—second Monday in August.

HeinOnline -- 1971 vol. I 184 1971

amendments, corrections, and additions made by the state and county boards of equalization and entered on the assessment book. The county clerk shall immediately deliver a copy of his statement of assessed and taxable values for districts to the county superintendent and a copy of those portions of such statement for each city and town to the appropriate city or town clerk.

Additional statements—joint school districts.

In the case of a joint school district, the county assessor and the county clerk shall, at the time of delivering their respective statements to the county superintendent, send a statement of the assessed value and taxable value of the portion of the joint school district situated in their county to the county superintendents and to the county commissioners of each county in which a part of the joint school district is situated.

Section 218. Section 75-6712. **County superintendent estimates of revenue and supply of other financial and statistical information.** Before the fourth Monday of July, the county superintendent shall prepare estimates of the revenue available to finance each fund included on each district's preliminary budget. The preliminary budget revenue estimates shall be entered by the county superintendent in the appropriate portion of the form. The county superintendent shall also enter any other financial and statistical information which is necessary for the completion of the budget form and which is available prior to the fourth Monday of July.

Revenue estimates by county superintendent.

Section 219. Section 75-6713. **Final budget meeting.** On the fourth Monday in July, at the hour of 10 a.m., the budget board of each county shall meet in the office of the county superintendent. The county superintendent, as clerk of the budget board, shall place before the budget board all of the district preliminary budgets submitted to or prepared by the county superintendent, including all information and any attachments required by law. The budget board shall examine and consider the budgets.

Final budget meeting—4th Monday in July.

Budget board shall adopt final budget —determine tax levies—second Monday in August.

The budget board may continue its meeting from day to day but shall adopt the final budget for each district and determine the amounts to be raised by tax levies for each district not later than the second Monday in August and before the fixing of the tax levies for each district. Any taxpayer in any district may attend any portion of the budget board's meeting and be heard on the budget

Taxpayer may attend.

HeinOnline -- 1971 vol. I 185 1971

of such district or on any item or amount contained in such budget.

Board's authority to adjust.

Section 220. Section 75-6714. **Final budget adjustment procedures.** At the meeting of the budget board, the budget board shall have the power to make any changes or corrections it may deem necessary or proper in any item or amount of the preliminary budget either by eliminating the item or amount, or by increasing or reducing the amount of any item. When it appears to the budget board that the amount proposed to be expended for any item of the preliminary budget is in excess of the amount actually required to be expended for such item, the budget board shall reduce such amount to the amount actually required to be expended and shall enter in its minutes the reasons for such reduction and shall immediately send a copy of such entry in the minutes to the chairman of the trustees of the applicable district.

Trustees shall be heard prior to adjustment.

Whenever the budget board adjusts a district's budget by any amount or eliminates any item, the budget board shall not take final action on such budget and shall afford the trustees of such district an opportunity to be heard on the budget by calling a hearing to be held on the first Monday in August. At such hearing, the budget board shall invoke the applicable school budget adjustment procedure to determine the amount adopted in the final budget. The school budget adjustment procedure shall be: (1) ELEMENTARY

Hearing 1st Monday in August.

Adjustment procedure. Elementary.

If, at such hearing, the trustees and the budget board are unable to agree on the amount or need for any item of an elementary district budget, the majority vote of all members of the elementary district board of trustees shall finally fix and determine such amount or item and this amount or item shall not be changed by the budget board.

High school.

(2) HIGH SCHOOL

At the hearing on the high school district budget, the chairman of the budget board or a member of that board appointed by him, the chairman of the board of trustees of the high school district or a member of that board appointed by him, and the county superintendent shall constitute a board of review. This board of review shall have the power and it shall be its duty to consider each amount or item adjusted by the budget board and to fix

HeinOnline -- 1971 vol. I 186 1971

and determine such amount or item for the final budget. Such amount or item shall not be subject to further review.

Section 221. Section 75-6715. **General fund budget adjustment when budget exceeds maximum limitation.** If it shall appear to the budget board that a district's preliminary general fund budget exceeds the maximum general fund budget allowed by law, including any additional levy, the budget board shall reduce item amounts of such budget to such an extent that the authorized maximum general fund budget, including any additional levy, shall not be exceeded. In adjusting any item of the preliminary general fund budget, the budget board shall be guided as far as possible by the wishes of the board of trustees. When the district is obligated by contract or the teacher tenure law to employ or retain any person at a specified salary or wage, the budget board shall not reduce any item of the general fund budget for salaries and wages which would reduce such item to less than that required to meet the district's obligations.

Duty to reduce amounts to authorized maximum.

Limitations.

Section 222. Section 75-6716. **Adoption and expenditure limitations of final budget.** When the budget board has caused the amount of an item of the budget for a district to be determined and set, it shall enter the amount in the portion of the budget form provided for the reporting of the final budget and upon completion of all the items the chairman and clerk of the budget board shall sign the budget form. The resulting budget shall constitute the final budget and the appropriations for the district for the current school fiscal year. The board of trustees and all officers and employees of the district shall be limited in making expenditures or incurring liabilities to the amount of such appropriations except that transfers from any appropriation item to another appropriation item within a fund's budget may be made as provided by law. Expenditures made, liabilities incurred, or warrants issued in excess of any of the final budget appropriations for any item, as originally determined or as revised by transfer, shall not be a liability of the district and no money of the district shall ever be used to pay the same.

Chairman and clerk shall sign budget form.

Limit on expenditures.

District not liable for excesses.

Section 223. Section 75-6717. **Fixing and levying tax levies by board of county commissioners.** On the second Monday in August when the members of the budget

HeinOnline -- 1971 vol. I 187 1971

board meet as the board of county commissioners for the purpose of fixing tax levies, the county superintendent, as clerk of the budget board, shall place before the board of county commissioners the final adopted budgets of all districts of the county and any emergency budget adopted by a district during the previous school fiscal year. It shall be the duty of the board of county commissioners of each county to fix and levy on all the taxable value of all the real and personal property within a district or the county, whichever is applicable, all district and county taxation required to finance, within the limitations provided by law, the final budgets and any emergency budgets of all districts of the county.

Duties of board of county commissioners to levy taxes.

Section 224. Section 75-6718. **Allocation of federal funds in lieu of property taxation.** Federal funds received by a district under the provisions of Title I of Public Law 81-874, or funds designated in lieu of such federal act by the congress of the United States, may be allocated to the various operating budgets of the district by the trustees.

Trustees may allocate federal funds.

Section 225. Section 75-6719. **Completion, filing and delivery of final budgets.** After the final budget of each district has been adopted by the budget board, and the county commissioners have levied the taxes to support such budgets, the county superintendent, as clerk of the budget board, shall complete all the remaining portions of the budget forms and shall file a copy of the final budgets in the office of the budget board. The county superintendent shall also: (1) send the final budget information to the superintendent of public instruction on the forms provided by the superintendent, on or before the first day of September.

Completion and filing of budget forms by September 1.

(2) deliver a copy of the final budget for each district to the county treasurer on or before the first day of September; and

September 1.

(3) send a copy of each district's final budget to the applicable school district on or before the first day of September.

September 1.

Section 226. Section 75-6720. **Designation of county officials for joint district budgeting.** When all of the schools of the joint districts are located in one (1) county, the county superintendent, the budget board, and

Joint districts—duty to perform school budgeting.

HeinOnline -- 1971 vol. I 188 1971

the county treasurer of the county where the schools of the district are located shall perform the school budgeting duties for such joint district. When the schools of a joint district are located in more than one (1) county, the superintendent of public instruction shall designate the county officials of one (1) county to perform the school budgeting duties for such joint district.

Designation.

The final budgets of joint districts shall be filed in the office of the county superintendent of each county in which a part of a joint district is located.

Filing.

Section 227. Section 75-6721. **Budgeting procedure for joint districts and establishment of communication procedure.** The trustees of a joint district shall adopt a preliminary budget according to the school budgeting laws and send a copy of such budget to the county superintendent of each county in which a part of the joint district is located; provided that two copies of the budget shall be sent to the county superintendent who is responsible for the performance of the budget duties. The county superintendents receiving the budget of a joint district shall jointly compute the estimated budget revenues and determine the number of mills which need be levied in the joint district for each fund for which a levy is to be made. The superintendent of public instruction shall establish a communication procedure to facilitate the joint estimation of revenues and determination of the tax levies.

Trustees of joint district—adoption of preliminary budget.

Communication procedure.

After determining, in accordance with law, the number of mills which need be levied for each fund included on the final budget of the joint district, a joint statement of the required mill levies shall be prepared and signed by the county superintendents involved in the computation. A copy of the statement shall be delivered to the board of county commissioners of each county in which a part of the joint district is located not later than the Friday immediately preceding the second Monday in August.

Joint statement.

Friday preceding second Monday in August.

Section 228. Section 75-6722. **Fixing and levying tax levies for joint districts.** At the time of fixing levies for county and school purposes on the second Monday in August, the board of county commissioners of each county in which a part of a joint district is located shall fix and levy taxes on that portion of the joint district located

Each county shall levy taxes.

HeinOnline -- 1971 vol. I 189 1971

in such board's county, at the number of mills for each such levy recommended by the joint statement of the county superintendents.

All required amounts included.

The board of county commissioners shall include in the amounts to be raised by the county levies for schools, all the amounts required for the final budget of each part of a joint district located in the county, in accordance with the recommendations of the county superintendent.

"Emergency" for school budgeting defined.

Section 229. Section 75-6723. **Definition of emergency for budgeting purposes.** As used in this title, unless the context clearly indicates otherwise, the term "emergency" for the purpose of school budgeting shall be: (1) an increase in the enrollment of a district over the immediately preceding school fiscal year which is beyond what could reasonably have been anticipated at the time of the adoption of the budget for the then-current school fiscal year, and that because of such enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

Effect of increased enrollment.

Destruction of property.

(2) the destruction or impairment of any school property necessary to the maintenance of the school by fire, flood, storm, riot, insurrection or any act of God to such an extent as to render such school property unfit for its present school use;

Judgment for damages.

(3) a judgment for damages against the district rendered by a court after the adoption of the budget for the current year;

Legislation.

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district; or

Other reasons.

(5) any other reason of similar consequences that has been approved by the superintendent of public instruction upon petition by the trustees of the district.

Adoption—emergency budgets.

Section 230. Section 75-6724. **Authorization for emergency budget adoption.** Emergency budgets may be adopted at any time of the school fiscal year except that emergency budgets required by an enrollment increase that could not have been anticipated at the time of the

HeinOnline -- 1971 vol. I 190 1971

adoption of the regular budget as provided in subsection (1) of section 75-6723 may not be adopted until after the last day of December.

Section 231. Section 75-6725. **Resolution for emergency budget and, under certain circumstances, petition of superintendent of public instruction.** Whenever the trustees of any district shall deem that an emergency exists, they may adopt a resolution proclaiming such emergency by a unanimous vote of all members present at any meeting for which each trustee has been given reasonable notice of the time and place of holding such meeting. The emergency resolution shall also state the facts constituting the emergency, the estimated amount of money required to meet the emergency, the funds affected by the emergency, and the time and place when the board will meet for the purpose of considering and adopting an emergency budget for such funds for the current school fiscal year.

Resolution.

Required statements.

If the trustees shall deem that an emergency exists for any reason other than the conditions specified in subsections (1), (2), (3), or (4) of section 75-6723, they shall petition the superintendent of public instruction for permission to adopt a resolution of emergency. Such petition shall set forth in writing the reasons for the request, the district funds affected by the emergency, the estimated amount of money required to meet such emergency for each affected fund, the anticipated sources of financing for the emergency expenditures, and such other information as may be required by the superintendent of public instruction. The petition shall be signed by each trustee.

Petition.

Required statements.

The superintendent of public instruction shall promptly approve or disapprove the petition requesting approval to adopt a resolution of emergency. If the petition is approved, the trustees may then adopt a resolution of emergency, and may subsequently take all other steps required for the adoption of an emergency budget. Approval of the petition by the superintendent of public instruction shall merely authorize the board of trustees to initiate emergency budget proceedings by resolution and shall not relieve the trustees of the necessity of complying with the requirements of the school emergency budgeting laws. Approval of the petition shall

Approval by state superintendent.

Effect of approval.

HeinOnline -- 1971 vol. I 191 1971

not be construed as approval of any subsequent application for increased state aid on account of such emergency.

Publication of emergency resolution.

Section 232. Section 75-6726. **Notice of emergency budget resolution.** A copy of the emergency resolution shall be published one (1) time in a newspaper that will give notice to the largest number of people of the district as determined by the trustees and a copy of the resolution shall be posted at each schoolhouse of the district. A copy of the emergency resolution shall also be delivered to the county superintendent and to the county clerk, as the clerk of the board of county commissioners of the county. The publication, posting, and delivery of the resolution shall be done not less than one (1) week before the day specified in the resolution for the consideration and adoption of an emergency budget.

Posting.

Distribution.

Not less than one week.

Public meeting.

Section 233. Section 75-6727. **Emergency budget limitation, preparation and adoption procedures.** The meeting of the trustees to consider and adopt an emergency budget shall be open to the public and any taxpayer in the district shall have the right to appear and be heard. If at such a meeting a majority of the trustees present shall find that an emergency exists, the trustees may make and adopt a preliminary emergency budget on the regular budget form setting forth fully the facts constituting the emergency. In adopting the preliminary emergency budget, the trustees may budget for any fund which was included on the final budget of the district for the current school fiscal year. The budget shall be itemized to show the amount appropriated for each item as required on the budget form.

Preliminary emergency budget.

Determination of maximum amount.

When the emergency is due to any increase of enrollment, the maximum amount of the emergency budget for all funds shall be determined in the following manner: (1) Determine the total amount in the final budget for the current school fiscal year of all funds affected by the emergency, less any amounts appropriated as capital outlay and any amount appropriated for addition to the cash reserve.

(2) Divide the amount determined in subsection (1) by the number of pupils originally enrolled in such district during the immediately preceding school fiscal year.

HeinOnline -- 1971 vol. I 192 1971

The resulting cost per pupil shall constitute the maximum permissible per-pupil expenditure in the emergency budget. Cost per pupil.

(3) Determine the enrollment increase of the current school fiscal year by subtracting the number of pupils originally enrolled during the immediately preceding school fiscal year from the number of pupils enrolled for the current school fiscal year. The result shall be the enrollment increase for the current school fiscal year. Enrollment increase.

(4) Multiply the cost per pupil determined in subsection (2) by the enrollment increase determined in subsection (3). The result shall be the maximum limitation on an emergency budget for emergencies due to an increase of enrollment. Maximum limitation.

In the event of any other type of emergency, the budget shall be limited by those expenditures deemed by the trustees to be reasonable and necessary to finance the stated conditions of the emergency, and the preliminary emergency budget shall be accompanied with the details of the proposed expenditures. Other limitations.

Whenever the trustees adopt a preliminary emergency budget for the transportation fund, the trustees shall attach to such budget a copy of each transportation contract which is connected with the emergency and which has been prepared and executed in accordance with the school transportation contract laws. Transportation contract.

After the trustees have adopted the preliminary emergency budget by a majority vote of the trustees, it shall be signed by the chairman of the trustees and the clerk of the district and two (2) copies of it shall be sent to the county superintendent as clerk of the budget board. The county superintendent shall place such preliminary emergency budget before the budget board at the next regular meeting of the board of county commissioners. The budget board shall consider and adopt the final emergency budget and shall have the power to make any change in the preliminary emergency budget that it may deem necessary and proper. After the budget board has adopted the final emergency budget, the chairman and the clerk of the budget board shall sign such budget. Majority vote. Signing. Distribution. Budget board shall consider and adopt final emergency budget. Signing.

HeinOnline -- 1971 vol. I 193 1971

Filing.

Distribution.

Section 234. Section 75-6728. **Filing and delivery of adopted emergency budget.** After the emergency budget has been approved by the budget board, the final emergency budget shall be filed in the office of the county superintendent, as clerk of the budget board, and the county superintendent shall immediately send a copy of such budget with a notation of the adoption date and any changes made by the budget board to the applicable district, county treasurer, and the superintendent of public instruction.

Trustees may apply to state superintendent for increased state aid.

Rules.

Duties.

Determination of amounts.

Notice.

Disbursement of aid.

Section 235. Section 75-6729. **State financial aid for emergency budgets.** Whenever a final emergency budget has been adopted for the general fund or the transportation fund to finance the cost of an emergency due to an increased enrollment or any other reason approved by the superintendent of public instruction under the provisions of section 75-6725, the trustees may apply to the superintendent of public instruction for an increased payment from the state public school equalization aid account for the foundation program or for state transportation reimbursement, or both. The superintendent of public instruction shall publish rules and regulations for such application. The superintendent of public instruction shall approve or disapprove each application for increased state aid made in accordance with this section. When the superintendent of public instruction approves an application, he shall determine the additional amount of state aid from the state public school equalization aid account or the state transportation reimbursement which will be made available to the applicant district because of the emergency caused by an increase in enrollment. The superintendent of public instruction instruction shall notify the applicant district of his approval or disapproval and, in the event of approval, the amount of additional state aid that will be made available for the general fund or the transportation fund. The superintendent of public instruction shall disburse such emergency state aid to the eligible district at the time the next regular state aid payment is made.

Amount of cash balance.

Section 236. Section 75-6730. **Determination of available financing and fixing and levying property taxation for an emergency budget.** After the last day of the school fiscal year for which an emergency budget has been adopted, the county treasurer shall determine the amount of the

HeinOnline -- 1971 vol. I 194 1971

cash balance that is available to finance the emergency budget's outstanding warrants or registered warrants for each fund included on the emergency budget. The available amount of the cash balance of each fund shall be determined by deducting from the county treasurer's year-end cash balance for such fund, the outstanding or registered warrants issued under the regularly adopted final budget for such fund and the cash reserve for such fund which the trustees have established, within the limitations of law, for the following school fiscal year.

Determination.

The county treasurer shall prepare and deliver a statement on the financial status of each fund included on an emergency budget for a district having such a budget during the preceding year to the board of county commissioners by the first Monday in August. Such statement for each district emergency budget shall include: (1) the total amount of the issued emergency warrants that are outstanding or registered against each fund of the district;

County treasurer's statement.

First Monday in August.

Mandatory information.

(2) the amount of the cash balance in each fund included on the emergency budget which is available to finance such outstanding or registered warrants; and

(3) after consideration of the available money in subsection (2), the additional amount of money which is required to finance the outstanding warrants or registered warrants and intersst on such warrants and which must be raised by a tax levy.

For each fund of the emergency budget of each district requiring a tax levy as established by subsection (3) of the county treasurer's statement, the board of county commissioners shall, at the time all other district and county taxes are fixed and levied, levy a tax on the taxable property of each applicable district that will raise sufficient financing to pay the amount established by the county treasurer.

Duty of board to levy.

Section 237. Section 75-6801. **Fund definitions.** As used in this title, unless the context clearly indicates otherwise:

Definitions.

A "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law. Funds are classified as follows: (1) A "budgeted fund" means any fund for which a budget must be adopted in order to expend any monies from such fund. The general fund, tranportation fund, bus depreciation reserve

"Fund."

HeinOnline -- 1971 vol. I 195 1971

fund, elementary tuition fund, retirement fund, debt service fund, leased facilities fund, building reserve fund, adult education fund, non-operating fund, post-secondary vocational-technical center fund and any other funds so designated by the legislature shall be budgeted funds.

"Non-budgeted fund."

(2) A "non-budgeted fund" means any fund for which a budget is not required in order to expend any monies on deposit in such fund. The school food services fund, miscellaneous federal programs fund, building fund, housing and dormitory fund, traffic education fund, interlocal cooperative fund and any other funds so designated by the legislature shall be non-budgeted funds.

School financial administration.

Section 238. Section 75-6802. **Application of law and superintendent of public instruction supervision.** The school financial administration provisions of this title shall apply to all monies of any district or any community college district, excepting the extra-curricular monies realized from pupil activities. The superintendent of public instruction shall have general supervision over the school financial administration provisions as prescribed by law and shall have the duty to establish such rules and regulations as are necessary to secure compliance with the law.

General supervision.

Joint district—county officials designated.

Section 239. Section 75-6803. **County officials for financial administration when joint district.** When all of the schools of the joint district are located in one (1) county, the school financial administration duties assigned to county officials shall be performed by those officials of the county wherein the schools of the district are located. When the schools of a joint district are located in more than one (1) county, the superintendent of public instruction shall designate the county officials of the same county to perform such duties for the joint district as were designated to perform the budgeting duties for the joint district under the provisions of section 75-6720.

Custodian of monies.

The designated county treasurer shall be the custodian of all joint district monies and shall perform all other duties of the county treasurer for the joint district. The superintendent of public instruction shall disburse all monies for a joint district to such county treasurer.

Annual financial report—September 1.

Section 240. Section 75-6804. **Annual financial report of county superintendent.** No later than the first day of September of each school fiscal year, the county superintendent shall report to the superintendent of public instruc-

HeinOnline -- 1971 vol. I 196 1971

tion the financial activity during the preceding school fiscal year of each district of the county in accordance with the reporting requirements prescribed by the superintendent of public instruction. Such reports shall be prepared on forms provided by the superintendent of public instruction.

Forms.

Section 241. Section 75-6805. **Duties of county treasurer.** The county treasurer of each county shall: (1) receive and hold all school monies subject to apportionment, and keep a separate accounting of their apportionments to the several districts which are entitled to a portion of such monies according to the apportionments ordered by the county superintendent. A separate accounting shall be maintained for each county fund supported by a county-wide levy for a specific, authorized purpose, including:

Duties of county treasurer.

Separate accounting for each fund.

(a) the basic county tax in support of the elementary foundation programs,

(b) the basic special tax for high schools in support of the high school foundation programs,

(c) the county tax in support of the county's high school transportation obligation,

(d) the county tax in support of the high school obligations to the retirement systems of the State of Montana,

(e) any additional county tax required by law to provide for deficiency financing of the elementary foundation programs,

(f) any additional county tax required by law to provide for deficiency financing of the high school foundation programs,

(g) the county tax for a post-secondary vocational-technical center when levied by the board of county commissioners, and

(h) any other county tax for schools which may be authorized by law and levied by the county commissioners;

(2) whenever requested, notify the county superintendent of the amount of county school monies on deposit in each of the funds enumerated in subsection (1) of this section and the amount of any other school monies subject to apportionment, and apportion such county and other school monies to the districts in accordance with the apportionment ordered by the county superintendent;

Notice and apportionment.

HeinOnline -- 1971 vol. I 197 1971

Separate accountings.

(3) keep a separate, detailed accounting of the expenditures by budget appropriation item within each budgeted fund included on the final budget of each district;

Separate accountings.

(4) keep a separate, detailed accounting of the receipts, expenditures, and cash balances for each budgeted fund included on the final budget of each district and for each non-budgeted fund established by each district;

Payment of warrants.

(5) except as otherwise limited by law, pay all warrants properly drawn on the county or district school monies and properly endorsed by their holders;

Receipt of revenue.

(6) receive all revenue collected by and for each district and deposit these receipts in the fund designated by law, or by the district if no fund is designated by law. Interest and penalties on delinquent school taxes shall be credited to the same fund and district for which the original taxes were levied;

Distribution of revenues.

December 15.

Every three months.

(7) send all revenues received for a joint district, part of which is situated in his county, to the county treasurer designated as the custodian of such revenues, no later than the fifteenth day of December of each year and every three (3) months thereafter until the end of the school fiscal year;

Registration and redemption of warrants.

(8) register district warrants drawn on a budgeted fund in accordance with sections 16-2604, R.C.M., 1947, when there are insufficient monies available in such budgeted fund to make payment of such warrant. Redemption of registered warrants shall be made in accordance with section 16-2605, 16-2602, and 16-2607, R.C.M., 1947;

Investments.

(9) invest the monies of any district as directed by the trustees of the district but in accordance with subsection (2) of section 16-2050 or subsection (8) of section 16-2618, R.C.M., 1947, whichever is applicable; and

Quarterly reports.

(10) give to the trustees of each district, at least quarterly, an itemized report for each fund maintained by the district showing the paid warrants, outstanding warrants, registered warrants, amount and types of revenue received, and the cash balance.

Authority of trustees.

Section 242. Section 75-6806. **Duties of trustees.** The trustees of each district shall have the sole power and authority to transact all fiscal business and execute all contracts in the name of such district. No person, other than

HeinOnline -- 1971 vol. I 198 1971

the trustees, acting as a governing board, shall have the authority to expend monies of the district. In conducting the fiscal business of the district, the trustees shall: (1) cause the keeping of an accurate, detailed accounting of all receipts and expenditures of school monies for each fund maintained by the district in accordance with rules and regulations prescribed by the superintendent of public instruction. The record of such accounting shall be open to public inspection at any meeting of the trustees;

Duties of trustees.

Accurate accounting.

(2) excepting payments under employee contracts, authorize all expenditures of district monies by the written approval of claims for such expenditures, and cause warrants to be issued for the payment of approved claims and payments under employee contracts;

Expenditures.

(3) have the authority to issue warrants on any budgeted fund in anticipation of budgeted revenues, except that such expenditures shall not exceed the amount budgeted for such fund;

Warrants.

(4) invest any monies of the district in accordance with subsection (2) of section 16-2050 or subsection (8) of section 16-2618, R.C.M., 1947, whichever is applicable, whenever in the judgment of the trustees such investment would be advantageous to the district;

Investments.

(5) report annually to the county superintendent not later than the first day of August, the financial activities of each fund maintained by the district during the last completed school fiscal year on the forms prescribed and furnished by the superintendent of public instruction. Annual fiscal reports for joint school districts shall be submitted to the county superintendent of each county in which part of the joint district is situated. Any elementary district that fails to submit the annual report by the time required shall not be entitled to receive any apportionment of the state interest and income monies and such forfeited monies shall be apportioned to the other elementary districts of the county;

Annual fiscal report —August 1.

(6) whenever requested, report any other fiscal activities to the county superintendent, superintendent of public instruction, or board of education;

Other reports.

(7) cause the accounting records of the district to be audited annually as required by law; and

Annual audit.

HeinOnline -- 1971 vol. I 199 1971

Other fiscal duties.

(8) perform, in the manner permitted by law, such other fiscal duties that are in the best interests of the district.

Annual audit of accounting records.

Section 243. Section 75-6807. **Examination of district accounting records.** The accounting records of all first- and second-class district and each third-class district maintaining a high school shall be audited annually by the state examiner in accordance with section 82-1008, R.C.M., 1947.

Auditing official designated.

Annually and at such other times as directed by the board of county commissioners or trustees, the county auditor, or the county treasurer if there is no county auditor, shall audit the accounting records of each third-class district that does not maintain a high school. Such district shall deliver all accounting records to the auditing

July 15.

county official no later than the fifteenth day of July for the audit of the financial activity of the last completed school fiscal year. The auditing county official shall examine the accounting records, prepare an audit report

Audit report.

August 15.

and shall: (1) return the accounting records to the district no later than the fifteenth day of August;

Distribution.

(2) send a copy of the audit report to the chairman of the trustees; and

Filing.

(3) file copies of the audit report with the county superintendent and the county clerk and recorder.

Conflict of interest unlawful.

Section 244. Section 75-6808. **Pecuniary interest, letting contracts and calling for bids, under certain circumstances.** It shall be unlawful for any trustee to have any pecuniary interest, either directly or indirectly, in the erection of any school building, or for warming, ventilating, furnishing, or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance and operation of the schools.

Mandatory advertising for bids.

The trustees of any district shall not let any contract for building, furnishing, repairing or other work for the benefit of the district, or purchasing supplies for the district, without first advertising in a newspaper that will give notice to the largest number of people of the district as determined by the trustees for at least two (2) weeks, calling for bids to perform such work or to furnish such

Exception.

supplies, except: (1) the trustees of a third-class district only maintaining elementary schools with fewer than

HeinOnline -- 1971 vol. I 200 1971

three (3) rooms may contract for such work or supplies without advertising and without bids, when the amount involved is less than eight hundred dollars ($800); $800.00.

(2) the trustees of a third-class district, other than those described in subsection (1), may contract for such work or supplies, without advertising and without bids, when the amount involved is less than fifteen hundred dollars ($1,500); and Exception. $1,500.00.

(3) the trustees of a second-class district or a first-class district may contract for such work or supplies, without advertising and without bids, when the amount involved is less than two thousand five hundred dollars ($2,500). Exception. $2,500.00.

In all cases where bidding is required, the trustees shall award the contract to the lowest responsible bidder except that the trustees shall have the right to reject any or all bids. Award to lowest responsible bidder—right to reject.

With regard to contracting for work or supplies, the board of trustees of a community college district shall be subject to the provisions of section 75-8118. Applies to community college districts.

Section 245. Section 75-6809. **Entering appropriations on accounting records of county treasurer.** When the county treasurer receives the final budgets of the districts from the county superintendent, he shall open a fund for each budgeted fund included on the final budget of each district by entering the amount appropriated for each item on his accounting record. Duties of county treasurer—entry of appropriations.

Whenever the county treasurer receives a final emergency budget for a district from the county superintendent, he shall increase the item appropriations of the regularly adopted final budget by the amount of the emergency budget appropriations for each item of each budgeted fund included on the final emergency budget. Emergency increases.

Section 246. Section 75-6810. **Procedure for issuance of warrants.** The trustees of each district shall issue all warrants in triplicate and the warrants shall identify: (1) the budgeted fund or non-budgeted fund on which the warrant is drawn; Warrants in triplicate. Identifications.

(2) the appropriation item of the budgeted fund or the type of expenditure for a non-budgeted fund on which the warrant is drawn; and

HeinOnline -- 1971 vol. I 201 1971

(3) the warrant as an emergency warrant, if it is drawn on an emergency budget.

Countersignatures.

Any warrant issued by a district shall be countersigned by the chairman of the trustees and the clerk of the district before the warrant shall be negotiable. Facsimile signatures may be used in accordance with the provisions of chapter 13 of title 59, R.C.M., 1947, provided that the facsimile signature device shall not be available to the other countersigner of the warrant.

Distribution of warrants.

The original copy of the warrant shall be delivered to the payee; the duplicate shall be sent immediately to the county treasurer; and the triplicate shall be retained by the district for accounting record purposes. The duplicate and triplicate copies shall be identified on the face of the warrant as "Not Negotiable — Copy of Original."

Recording.

Section 247. Section 75-6811. **Recording and payment of warrants by county treasurer.** Immediately after receiving a duplicate warrant from a district, the county treasurer shall enter the amount and number of such warrant on his accounting records under the fund and appropriation item identified on such warrant. The recording of the warrants shall allow for the computation of the unexpended appropriation amount of appropriation items of a budgeted fund from the accounting records.

Notice of probable over expenditure.

Whenever it appears to the county treasurer that an appropriation item of a budgeted fund is so nearly exhausted that the issuance of another warrant will cause the overexpenditure of such appropriation item, the county treasurer shall immediately notify the appropriate district of the expended condition of the appropriation item and the district shall not issue another warrant against such appropriation item until its budgeted amount has been increased.

Notice of overdraft —effect of failure to correct.

After receiving a duplicate warrant which will exceed the unexpended balance of an original or revised amount of an appropriation item of a budgeted fund, the county treasurer shall immediately notify the district of such overdraft. If the district has not corrected the overdraft of an appropriation item before the presentation of the original warrant for payment, the county treasurer shall refuse to pay or register such warrant, and shall endorse across the face of such warrant "Payment and Registration Refused, Insufficient Appropriation" and return the

Endorsement.

HeinOnline -- 1971 vol. I 202 1971

warrant to the person presenting it for payment of registration.

Whenever a warrant will overexpend the cash balance of a non-budgeted fund, the county treasurer shall refuse to pay or register such warrant, and shall endorse across the face of such warrant "Payment and Registration Refused, Insufficient Funds" and return the warrant to the person presenting it for payment. The county treasurer shall immediately notify the district of such refusal to pay or register the warrant drawn on a non-budgeted fund.

Effect of probable over expenditure.

Endorsement.

Notice.

Section 248. Section 75-6812. **Transfer among appropriation items of a fund.** Whenever it appears to the trustees of any district that the appropriated amount of any item of a budgeted fund of the final budget or the emergency budget is in excess of the amount actually required during the school fiscal year for such appropriation item, the trustees may transfer any or all of the excess appropriation amount to any other appropriation item of the same budgeted fund.

Trustees may transfer excess amounts.

Such transfers shall not be made between different funds of the same district or between similar funds of different districts except as specifically provided by this title. The trustees shall immediately notify the county treasurer in writing of any transfer between appropriation items and the county treasurer shall enter such transfer on his accounting records.

Limitations.

Notice of transfers.

Entry.

Section 249. Section 75-6813. **Lapse of budgeted appropriations and provision for unpaid claims.** All appropriations for a budgeted fund in the regular or emergency budget for a given school fiscal year shall lapse on the last day of such school fiscal year except the appropriations for uncompleted improvements in progress of construction. Any lawful claim presented to the district for payment under a lapsed appropriation shall be an obligation of the budget for the next ensuing school fiscal year.

Lapsed appropriations.

Effect on claims.

Section 250. Section 75-6814. **Expenditure limitation and cash retention of non-budgeted fund.** The expenditure limitation, at any time during the school fiscal year, for a non-budgeted fund shall be the amount of cash balance of such non-budgeted fund. The cash balance of a non-budgeted fund shall remain to the credit of such

Expenditure limitation defined.

Cash retention.

HeinOnline -- 1971 vol. I 203 1971

non-budgeted fund from year to year unless a transfer is specifically authorized by this title.

Uniform system of free public schools.

Section 251. Section 75-6901. **Purpose and definition of foundation program and general fund.** A uniform system of free public schools, sufficient for the education of and open to all school age children of the state shall be established and maintained throughout the State of Montana. The state shall aid in the support of its several school districts on the basis of their financial need as measured by the foundation program and in the manner established in this title.

State aid.

Purpose of general fund.

The principal budgetary vehicle for achieving the minimum financing as established by the foundation program shall be the general fund of the district. The purpose of the general fund shall be to finance those general maintenance and operational costs of a district not financed by other funds established for special purposes in this title.

Limitation on amount.

Financing of general fund.

The amount of the general fund budget for each school fiscal year shall not exceed the financing limitations established by this title but shall be no less than the amount established by law as the foundation program. The general fund budget shall be financed by the foundation program revenues and may be supplemented by the permissive levy and additional voted levies, in the manner provided by law.

"Average number belonging" or "ANB" defined.

Section 252. Section 75-6902. **Definition and calculation of average number belonging (ANB).** The term "average number belonging" or "ANB" shall mean the average number of regularly enrolled, full-time pupils attending the public schools of a district. Average number belonging shall be computed by determining the total of the aggregate days of attendance by regularly enrolled, full-time pupils during the current school fiscal year plus the aggregate days of absence by regularly enrolled, full-time pupils during the current school fiscal year, and by dividing such total by one hundred eighty (180).

Computation.

Attendance.

Absence of pupil.

10th day of absence.

Attendance for a part of a morning session or a part of an afternoon session by a pupil shall be counted as attendance for one-half (½) day. When any pupil has been absent, with or without excuse, for more than ten (10) consecutive school days, including pupil instruction related days, his absence after the tenth (10th) day of ab-

HeinOnline -- 1971 vol. I 204 1971

sence shall not be included in the aggregate days of absence and his enrollment in the school shall not be considered in the calculation of the average number belonging until he resumes attendance at school.

Calculation for each school.

The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district shall be calculated, individually, for each school except that when: (1) more than one school of a district, other than a junior high school in an elementary district which has been approved and accredited as a junior high school, is located within the incorporated limits of a city or town, the average number belonging of such schools shall be based on the aggregate of all the regularly enrolled, full-time pupils attending such schools located within the incorporated limits of a city or town;

More than one school.

Junior high school.

(2) a junior high school which has been approved and accredited as a junior high school is located within the incorporated limits of a city or town in which a high school is located, all of the regularly enrolled, full-time pupils of the junior high school shall be considered as high school district pupils for the purposes of calculating the average number belonging of the high schools located within the incorporated limits of such city or town; or

Non-accredited school.

(3) a school has not been accredited by the board of education, the regularly enrolled, full-time pupils attending the non-accredited school shall not be eligible for average number belonging calculation purposes, nor will an average number belonging for the non-accredited school be used in determining the foundation program for such district.

Kindergarten pupils.

Regularly enrolled, full-time pupils who have reached the age of six (6) years and who are attending a kindergarten program of an elementary district established under the provisions of section 75-7507 may be included in the calculation of the average number belonging of each school conducting a kindergarten program.

Section 253. Section 75-6903. **Circumstances under which the regular average number belonging may be increased.** The average number belonging of a school for a given school fiscal year, calculated in accordance with the ANB formula prescribed in section 75-6902, may be increased when: (1) the opening of a new elementary school or the reopening of an elementary school has been

Increase of ANB.

Elementary school.

HeinOnline -- 1971 vol. I 205 1971

approved in accordance with section 75-6602. The average number belonging for such school shall be setablished by the county superintendent and approved, disapproved or adjusted by the superintendent of public instruction;

High school.

(2) the opening or reopening of a high school or a branch of the county high school has been approved in accordance with sections 75-6603, 75-6604 or 75-6605. The average number belonging for such high school shall be established by the county superintendent's estimate, after an investigation of the probable number of pupils that will attend such high school;

Closing of schools.

(3) a district anticipates an increase in the average number belonging due to the closing of any private or public school in the district or a neighboring district. The estimated increase in average number belonging shall be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction no later than the fourth Monday in June;

4th Monday in June.

Special education programs.

(4) the district is conducting, or will conduct during the ensuing school fiscal year, a special education class or program. The authorized increase in the average number belonging is prescribed by section 75-7813 and shall be available only when the operation of such special education class or program has been approved by the superintendent of public instruction in accordance with the special education law. In order to obtain the benefit of this increased average number belonging, a school shall not include the pupils attending a full-time special education class or program in the regular calculation of the average number belonging; or

Enrollment increase.

(5) a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The increase in average number belonging shall be based on estimates of increased enrollment approved by the superintendent of public instruction and shall be computed in the manner prescribed by section 75-6904.

Section 254. Section 75-6904. **Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase.** A district which anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in subsection (5) of section 75-6903, may increase its foun-

District may increase foundation program.

HeinOnline -- 1971 vol. I 206 1971

dation program for the ensuing school fiscal year in accordance with the following provisions: (1) To determine if a district is eligible for an increased foundation program due to an unusual enrollment increase, the average number belonging used for the establishment of the foundation program for the current year and for each year of the immediately preceding three (3) years shall be used to calculate the percentage increase or decrease in average number belonging for the current year's foundation program over the immediately preceding year, and similarly calculate the percentage increase or decrease in average number belonging for each of the two preceding years. The three (3) annual percentage increases or decreases shall be averaged to obtain the average annual percentage increase or decrease in average number belonging. The district shall be eligible for the unusual enrollment increase if the average annual increase is not less than three per cent (3%).

Determination of eligibility.

Not less than 3%.

(2) When a district is eligible under subsection (1), the district shall estimate the current year's average number belonging by totaling the aggregate days of attendance and aggregate days of absence realized in the district through April 30 and dividing such total by one hundred eighty (180). The resulting average number belonging shall be increased by the ratio that the total number of planned school days in the current school fiscal year bears to the number of school days completed through April 30.

District estimate computation.

(3) Prior to May 10, the district shall estimate the probable average number belonging to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

Prior to May 10—district estimate.

(4) No later than May 10, the district shall submit its application for an unusual enrollment increase to the board of school budget supervisors (budget board). Such application shall include: (a) the computation of the average annual percentage increase in average number belonging as provided in subsection (1) above;

May 10—application.

Mandatory statements.

(b) the estimate of the current school fiscal year's average number belonging, as provided in subsection (2) above;

(c) the estimated average number belonging for the ensuing school fiscal year, including the factual informa-

HeinOnline -- 1971 vol. I 207 1971

tion on which the estimate is based, as provided in subsection (3) above; and

(d) any other information or data that may be requested by the budget board.

Board review.

(5) The budget board shall review the application to determine if the district is eligible for an increase in its foundation program as provided in subsection (1) above and to determine if the estimate of the anticipated increase in average number belonging is substantiated. The

Decision.

budget board may then accept, reject, or adjust the district's estimate of the ensuing year's average number

Duties if approved.

belonging. After approving an estimate, the budget board shall:

(a) determine the percentage increase which the estimated average number belonging for the ensuing school fiscal year is over the estimated average number belonging for the current school fiscal year as provided for in subsection (2) above; and

(b) approve an increase of the average number belonging used to establish the ensuing year's foundation program in accordance with subsection (7) if the increase in subsection (5) (a) above is at least twice the average annual percentage increase as provided in subsection (1) above.

(6) If the budget board approves the application for an unusual enrollment increase, it shall send the application to the superintendent of public instruction together with any other information or data requested by the superintendent of public instruction on or before May 25.

Review by state superintendent.

The superintendent of public instruction shall immediately review all the factors of the application and the

Decision.

approval of the budget board, and shall approve or disapprove the application or adjust the estimated average number belonging for the ensuing school fiscal year. The

Notice by 4th Monday in June.

superintendent of public instruction shall notify the district of his decision by the fourth Monday in June.

(7) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, the

Computation of increase.

increase of the average number belonging used to establish the foundation program for the ensuing school fiscal year shall be computed as follows:

HeinOnline -- 1971 vol. I 208 1971

(a) after the actual average number belonging for the current school fiscal year has been computed, the normal average number belonging increase is determined by applying the annual percentage increase, as computed in subsection (1) above, to the actual average number belonging for the current school fiscal year;

(b) subtract the actual average number belonging for the current school fiscal year from the approved estimated average number belonging for the ensuing school fiscal year; and

(c) the difference between the amount determined in subsection (7) (b) above and the amount determined in subsection (7) (a) above shall be the maximum allowable increase added to the actual average number belonging for the current school fiscal year for the purpose of establishing the ensuing year's foundation program.

Section 255. Section 75-6905. **Maximum-general-fund-budget-without-a-valid-levy schedules for elementary and high schools.** The total amount of the general fund budget of any district shall not be greater than the general fund budget amount specified in the following schedules, except when a district has adopted an emergency general fund budget under the provisions of section 75-6727 or when a district has voted an additional levy under the provisions of section 75-6923.

Limitations on amount of district general fund budget.

Exceptions.

Elementary Schools

(1) For each elementary school having an ANB of nine (9) or fewer pupils, the maximum shall be seventy-two hundred forty-eight dollars ($7,248), if said school is approved as an isolated school.

Elementary school maximums. $7,248.

(2) For each elementary school with an ANB of ten (10) pupils, but less than eighteen (18) pupils, the maximum shall be seventy-two hundred forty-eight dollars ($7,248) plus two hundred fourteen dollars ($214) per pupil on the basis of the average number belonging over nine (9).

$7,248 plus $214 per pupil.

(3) For each elementary school with an ANB of eighteen (18) pupils and employing one (1) teacher, the maximum shall be ninety-one hundred seventy dollars ($9,170) plus eighty-five dollars ($85) per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over twenty-five (25).

$9,170 plus $85 per pupil.

HeinOnline -- 1971 vol. I 209 1971

$16,470 plus $85 per pupil.

(4) For each elementary school with an ANB of eighteen (18) pupils and employing two (2) full-time teachers, the maximum shall be sixteen thousand four hundred seventy dollars ($16,470) plus eighty-five dollars ($85) per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over fifty (50).

ANB in excess of 40—maximums.

(5) For each elementary school having an ANB in excess of forty (40) the maximum on the basis of the total pupils (ANB) in the district for elementary pupils will be as follows:

$580.20 per pupil—decrease 43 cents.

(a) For each elementary school having an ANB of more than forty (40) and employing a minimum of three (3) teachers, the maximum of five hundred eighty dollars and twenty cents ($580.20) per pupil shall be decreased at the rate of forty-three cents ($.43) for each additional pupil over forty (40) until the total number (ANB) shall have reached a total of one hundred (100) pupils.

$554 per pupil—decrease 51 cents.

(b) For each elementary school having an ANB of more than one hundred (100) pupils, the maximum of five hundred fifty-four dollars ($554) per pupil shall be decreased at the rate of fifty-one cents ($.51) for each additional pupil over one hundred (100) until the ANB shall have reached three hundred (300) pupils.

$451.35 per pupil.

(c) For each elementary school having an ANB of more than three hundred (300) pupils, the maximum shall not exceed four hundred fifty-one dollars and thirty-five cents ($451.35) per pupil.

Basis of computation.

(6) The maximum per pupil, for all pupils (ANB) and for all elementary schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB. All elementary schools operated within the incorporated limits of a city or town shall be treated as one school for the purpose of this schedule.

High school maximums.

High Schools

$35,440.

(7) For each high school having an ANB of twenty-four (24) or fewer pupils, the maximum shall be thirty-five thousand four hundred forty dollars ($35,440).

$1,476.35 per pupil—decrease $9.75.

(8) For each high school having an ANB of more than twenty-four (24) pupils, the maximum fourteen hundred seventy-six dollars and thirty-five cents ($1,476.35) per pupil shall be decreased at the rate of nine dollars and

HeinOnline -- 1971 vol. I 210 1971

seventy-five cents ($9.75) for each additional pupil over twenty-four (24) until the ANB shall have reached a total of forty (40) such pupils. For each high school having an ANB of more than forty (40) pupils, the maximum of thirteen hundred twenty dollars and thirty-five cents ($1,320.35) per pupil shall be decreased at the rate of six dollars and sixty cents ($6.60) for each additional pupil over forty (40) until the ANB shall have reached one hundred (100) pupils. For each high school having an ANB of more than one hundred (100) pupils, a maximum of nine hundred twenty-three dollars and seventy-five cents ($923.75) per pupil shall be decreased at the rate of two dollars and fifteen cents ($2.15) for each additional pupil over one hundred (100) until the ANB shall have reached two hundred (200) pupils. For each high school having an ANB of more than two hundred (200) pupils, the maximum of seven hundred eight dollars and seventy-five cents ($708.75) per pupil shall be decreased by forty-nine cents ($.49) for each additional pupil over two hundred (200) until the ANB shall have reached three hundred (300) pupils. For each high school having an ANB of more than three hundred (300) pupils, the maximum of six hundred sixty dollars ($660) per pupil shall be decreased at the rate of twelve and one-half cents ($.125) per pupil until the ANB shall have reached six hundred (600) pupils. For each high school having an ANB over six hundred (600) pupils, the maximum shall not exceed six hundred twenty-two dollars and fifty cents ($622.50) per pupil.

$1,320.35 per pupil —decrease $6.60.

$923.75 per pupil —decrease $2.15.

$708.75 per pupil— decrease 49 cents.

$660 per pupil— decrease 12½ cents.

$622.50 per pupil.

(9) The maximum per pupil for all pupils (ANB) and for all high schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB. All high schools and junior high schools which have been approved and accredited as junior high schools, operated within the incorporated limits of a city or town shall be treated as one school for the purpose of this schedule.

Basis of computation.

(10) The general fund budget amount for an approved and accredited junior high school shall be prorated between the elementary district general fund budget and the high school district general fund budget in the following manner:

Prorated for junior high school.

Computation.

(a) determine the per-ANB schedule amount for the

HeinOnline -- 1971 vol. I 211 1971

school, as defined by this section, from the high school schedule;

(b) calculate the ANB for the regularly enrolled full-time pupils enrolled in the seventh (7th) and eighth (8th) grades of the junior high school;

(c) multiply the per-ANB schedule amount determined in subsection (a) by the ANB calculated in subsection (b) to determine the authorized general fund budget amount which shall be available for the elementary district general fund budget; and

(d) subtract the amount determined in subsection (c) from the total authorized general fund budget amount for the school to determine the authorized general fund budget amount which shall be available for the high school district general fund budget.

Total-maximum-general-fund-budget-without-a-veto levy.

The general fund budget amount determined for each school of a district under the schedules provided in this section shall be totaled to determine the maximum-general-fund-budget-without-a-voted-levy for such district.

Section 256. Section 75-6906. **Definition of foundation program and its proportion of the maximum-general-fund-without-a-voted-levy schedule amount, and non-isolated school foundation program financing.** As used in this title, the term "foundation program" shall mean the minimum operating expenditures as established herein, that are sufficient to provide for the educational program of a school. It shall be financed by (1) county equalization monies, (2) state equalization aid, and (3) when required, monies from an additional county levy for a state deficiency. In addition, the elementary school foundation programs shall be supported by interest and income monies. The foundation program relates only to those expenditures authorized by a district's general fund budget and shall not include expenditures from any other fund.

"Foundation program" defined.

Source of monies.

Dollar amount—80% of limitation.

The dollar amount of the foundation program shall be eighty per cent (80%) of the maximum general-fund-budget-without-a-voted-levy limitation as set forth in the schedules in section 75-6905. The foundation program of an elementary school having an ANB of nine (9) or fewer pupils which is not approved as an isolated school under the provisions of section 75-6608 shall be eighty

HeinOnline -- 1971 vol. I 212 1971

per cent (80%) of the schedule amount but the county and state shall participate in financing one-half (½) of the foundation program and the district shall finance the remaining one-half (½) by a tax levied on the property of the district. When a school of nine (9) or fewer pupils is approved as isolated under the provisions of section 75-6608, the county and state shall participate in the financing of the total amount of the foundation program.

Section 257. Section 75-6907. **Definition of interest and income monies.** As used in this title, the term "interest and income monies" shall mean the total of the following revenues, as provided in section 5, article XI of the constitution of the State of Montana: (1) ninety-five per cent (95%) of the interest received from the investment of the public school fund;

"Interest and income monies" defined.

(2) ninety-five per cent (95%) of the interest received from the investment of any other school funds held in trust by the state board of land commissioners;

(3) ninety-five per cent (95%) of the income received from the leasing of state school lands after any deductions that may be made under the provisions of chapter 24 of title 81, R.C.M., 1947; and

(4) ninety-five per cent (95%) of any other income derived from any other covenant affecting the use of state school lands.

The remaining five per cent (5%) of such revenues shall be annually credited to the public school fund.

Section 258. Section 75-6908. **Distribution of interest and income monies by superintendent of public instruction.** The state board of land commissioners shall annually deposit the interest and income monies for each calendar year to the credit of the account established by the state treasurer for such monies by the last business day of February following the calendar year in which the monies were received.

Annual deposit of interest and income.

Last business day of February.

On or before the first Monday of March the superintendent of public instruction shall distribute the total amount of the interest and income monies on deposit with the state treasurer to the several counties of the state. The amount to be distributed to each county shall be calculated as follows: (1) the total amount to be dis-

Distribution—first Monday in March.

Calculation of amount to each county.

HeinOnline -- 1971 vol. I 213 1971

tributed shall be divided by the approved total number of school census children in the State of Montana, as established by the approved school census report of each district for the current school fiscal year under the provisions of sections 75-5936 and 75-5937, to determine the per census child payment of the interest and income monies; and

(2) the per census child payment determined in subsection (1) shall be multiplied by the approved number of school census children reported by each district of the county. The result is the portion of interest and income monies to be distributed to such county.

The total amount of the interest and income monies deposited with the state treasurer in accordance with this section shall be distributed in the annual distribution made by the superintendent of public instruction. The superintendent of public instruction shall certify to the county superintendent of each county, the amount of interest and income monies distributed to his county.

Certification.

Section 259. Section 75-6909. **Apportionment of interest and income monies by county superintendent.** Immediately upon receipt of the interest and income monies from the superintendent of public instruction, the county superintendent shall apportion the county's receipt of interest and income monies to the several elementary districts of the county. Such apportionment shall not be made to any elementary district that: (1) will not operate at least one school during the current school fiscal year for at least one hundred eighty (180) days as provided in section 75-7402; or

Apportionment to districts.

Exceptions.

(2) did not submit its annual fiscal report to the county superintendent by the first day of August as provided in subsection (5) of section 75-6806.

Section 260. Section 75-6910. **Procedure for distribution of interest and income monies in a county.** The county superintendent shall order the county treasurer to distribute the interest and income monies to the eligible elementary districts on the following basis: (1) the total amount of interest and income monies received from the state shall be divided by the approved total number of census children in the eligible elementary districts of the county, to determine the per census child apportionment of the interest and income monies for the county; and

Basis for distribution by county treasurer.

HeinOnline -- 1971 vol. I 214 1971

(2) the apportionment determined in subsection (1) shall be multiplied by the approved number of school census children reported by the district. The result is the portion of interest and income monies received by the county to be apportioned to such eligible district.

The total amount of the interest and income monies received from the state shall be apportioned by the county superintendent. The county treasurer shall credit the interest and income monies to the several elementary districts of the county in accordance with the apportionment order of the county superintendent.

Section 261. Section 75-6911. **Budget estimations of interest and income monies.** The interest and income monies shall be the first source of revenue in calculating the financing of an elementary district foundation program. In June, the superintendent of public instruction shall estimate a statewide per census child payment of the estimated interest and income monies that will be available for the ensuing school fiscal year distribution. The superintendent of public instruction shall notify the county superintendents of such estimate by the first day of July. For budgeting purposes, the county superintendent shall use the per census child estimate of the superintendent of public instruction and the approved number of school census children from the last completed census report of the district to estimate the interest and income monies available for the financing of the ensuing year's foundation program.

In June—estimate by state superintendent.

Notice to county superintendents.

Basis for estimate for budget purposes.

Section 262. Section 75-6912. **Basic county tax and other revenues for county equalization of the elementary district foundation program.** It shall be the duty of the county commissioners of each county to levy an annual basic tax of twenty-five (25) mills on the dollar of the taxable value of all taxable property within the county unless a basic levy of less than twenty-five (25) mills is sufficient to finance the total amount of the foundation programs of all the elementary districts of the county. In order to determine if a lesser levy will be sufficient, the sum of the estimated revenues identified in subsections (1) through (6) below shall be subtracted from the sum of the county elementary transportation obligation and the total of the foundation programs of all elementary districts of the county. If a basic levy of less than twenty-five (25) mills is sufficient to finance the

Duty to levy annual basic tax—25 mills exception.

Determination of lesser levy.

HeinOnline -- 1971 vol. I 215 1971

Effect.

difference determined above, the county commissioners shall fix a basic levy of such amount. No elementary district within a county levying less than twenty-five (25) mills shall receive any distribution of state equalization aid.

Use of levy proceeds.

Separate accounting.

Forest reserve funds.

The proceeds realized from the levy prescribed by this section and the revenues from the following sources shall be used for the equalization of the elementary district foundation programs of the county as prescribed in section 75-6914 and a separate accounting shall be kept of such proceeds and revenues by the county treasurer in accordance with subsection (1) of section 75-6805; (1) the portion of the federal forest reserve funds distributed to a county and designated for the common school fund under the provisions of section 79-205, R.C.M., 1947;

Taylor grazing act funds.

(2) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of section 79-702, R.C.M., 1947;

Flood control act funds.

(3) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of section 79-2102, R.C.M., 1947;

Fines.

(4) all monies which are paid into the county treasury as a result of fines for violations of law and the use of which is not otherwise specified by law;

Carry-over monies.

(5) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for the various sources of revenue established or referred to in this section; and

Payments in lieu of property taxation.

(6) any federal or state monies distributed to the county as payment in lieu of the property taxation established by the county levy required by this section.

Duty to levy annual basic special tax—15 mills.

Exception.

Section 263. Section 75-6913. **Basic special levy and other revenues for county equalization of high school district foundation program.** It shall be the duty of the county commissioners of each county to levy an annual basic special tax for high schools of fifteen (15) mills on the dollar of the taxable value of all taxable property within the county unless a basic special levy for high schools of less than fifteen (15) mills is sufficient to

HeinOnline -- 1971 vol. I 216 1971

finance the total amount of the foundation programs of all the high school districts of the county. In order to determine if a lesser levy will be sufficient, the estimated revenues identified in subsections (1) and (2) below shall be subtracted from the sum of the county's high school tuition obligation and the total of the foundation programs of all high school districts of the county. If a basic special levy for high schools of less than fifteen (15) mills is sufficient to finance the difference determined above, the county commissioners shall fix a basic special levy for high schools of such amount. No high school district within a county levying less than fifteen (15) mills shall receive any distribution of state equalization aid.

Determination of lesser levy.

Effect.

The proceeds realized from the levy prescribed in this section and the revenues from the following sources shall be used for the equalization of the high school district foundation programs of the county as prescribed in section 75-6914, and a separate accounting shall be kept of these proceeds by the county treasurer in accordance with subsection (1) of section 75-6805: (1) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for deposit of the proceeds from the levy established in this section; and

Use of levy proceeds.

Separate accounting.

Carry-over monies.

(2) any federal or state monies distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section.

Payments in lieu of property taxation.

Section 264. Section 75-6914. **Apportionment of county equalization monies by county superintendent.** The county superintendent shall separately apportion the revenues deposited in the basic county tax account and the revenues deposited in the basic special tax for high schools account to the several districts of the county on a quarterly basis. Such apportionments shall be known as "county equalization monies." Before the county superintendent makes the quarterly apportionments, he shall: (1) deduct from the revenues available in the basic county tax account, the amount required for the quarter to pay the county's obligation for elementary transportation reimbursements; and

Apportionment of revenues.

"County equalization monies."

Deductions.

(2) deduct from the revenues available in the basic special tax for high schools account, the amount re-

HeinOnline -- 1971 vol. I 217 1971

quired for the quarter to pay the county's obligation for high school out-of-county tuition.

Section 265. Section 75-6915. **Formulas for apportionment of county equalization monies.** After making such deductions prescribed in section 75-6914, the county superintendent shall apportion the remaining amount of monies available in the basic county tax acount to the several elementary districts of the county and in the basic special tax for high schools account to the several high school districts of the county in proportion to their needs under the foundation program in accordance with the following procedure:

Apportionment based on needs under foundation program.

Procedure.

Elementary schools.

Elementary Schools

(1) Determine the percentage that the sum of interest and income monies plus the county equalization monies available for the support of the foundation programs of the elementary districts in the county is of the total amount of the foundation programs of all such elementary districts.

(2) Determine the percentage that the interest and income monies available to each elementary district (excluding any county equalization monies) is of the amount of the foundation program of each such elementary district.

(3) Elementary districts in which the percentage determined in subsection (2) exceeds the percentage determined in subsection (1) shall not be entitled to an apportionment of the county equalization monies available for the equalization of the elementary district foundation program and shall be excluded from further consideration under this procedure.

(4) After elimination of elementary districts under subsection (3), determine the percentage that the sum of the interest and income monies available to all remaining elementary districts in the county plus the county equalization monies available for the support of the foundation programs of the elementary districts in the county is of the total amount of the foundation programs of all such remaining elementary district.

(5) The difference between the percentage determined in subsection (4) above and the percentage determined

HeinOnline -- 1971 vol. I 218 1971

for such eligible elementary district in subsection (2) above, shall be multiplied by the foundation program amount for each remaining elementary district to determine the portion of the county equalization monies available to each eligible elementary district.

High Schools

High schools.

(6) Determine the percentage that the county equalization monies available for the support of the foundation programs of the high school districts in the county is of the total amount of the foundation programs of all such high school districts.

(7) Multiply the foundation program amount of each high school district by the percentage determined in subsection (6) above to determine the portion of the county equalization monies available to each high school district.

Limitations on exclusion.

No district shall be deprived of its needful share of the county monies apportioned under this section by reason of it being non-accredited. Nor shall any territory situated within a county be excluded from the apportionment of the county equalization monies under this section solely because such territory lies within the boundaries of a joint district. Cash balances to the credit of any district at the end of a school fiscal year shall not be considered in the apportionment procedure prescribed in this section.

Retention of excess monies.

When the total amount of the available county monies for apportionment under this section is greater than the amount of money to be apportioned under the apportionment procedure prescribed by this section, the excess amount of county monies shall be retained by the county to be considered as financing during the ensuing school fiscal year under the requirements of subsection (5) of section 75-6912 or subsection (1) of section 75-6913.

Use of revenues.

The county equalization monies apportioned under these procedures shall constitute the second source of revenue in calculating the financing of the elementary district foundation program and shall constitute the first source of revenue in calculating the financing of the high school district foundation program. The county superintendent shall use the apportionment procedure prescribed in this section in computing the estimated

HeinOnline -- 1971 vol. I 219 1971

revenues for the financing of the ensuing year's foundation program for budgeting purposes.

Sources of fund for equalization aid.

Section 266. Section 75-6916. **Definition of and revenue for state equalization aid.** There shall be paid into the earmarked revenue fund, for state equalization aid to public schools of the state, twenty-five per cent (25%) of all monies received from the collection of income taxes under chapter 49 of title 84, R.C.M., 1947, and twenty-five per cent (25%) of all monies received from the collection of corporation license taxes under chapter 15 of title 84, R.C.M., 1947, as provided by section 84-1901, R.C.M., 1947. In addition to these revenues, one-half (½) of the monies received from the treasurer of the United States as the state's share of oil and gas royalties under the act of congress of February 25, 1920 shall be paid into the same earmarked revenue fund.

25% of income taxes.

25% of corporation license taxes.

One-half of oil and gas royalties.

"State equalization aid" defined.

As used in this title, the term "state equalization aid" shall mean those monies deposited in the earmarked revenue fund as required in this section plus any legislative appropriation of monies from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

Purposes.

Section 267. Section 75-6917. **Purpose of state equalization aid and duties of the board of education for distribution.** The monies available for state equalization aid shall be distributed and apportioned to provide an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt service and for the payment of any and all costs and expense incurred in connection with any adult education program, kindergarten, recreation program, school food services program, new buildings, new grounds, and transportation.

Powers and duties of board of education.

The board of education shall administer and distribute the state equalization aid in the manner and with the powers and duties provided by law. To this end, the

Policies.

board of education shall: (1) adopt policies for regulating the distribution of state equalization aid in accordance with the provisions of law;

Reports.

(2) have the power to require such reports from the county superintendents, budget boards, county treasurers, and trustees as it may deem necessary; and

HeinOnline -- 1971 vol. I 220 1971

(3) in the months of December and April of each school fiscal year, order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to such aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of education shall not increase or decrease the state equalization aid distribution to any district on account of any difference which may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

Orders to distribute.

Limitations.

Section 268. Section 75-6918. **Duties of the superintendent of public instruction for state equalization aid distribution.** The superintendent of public instruction shall administer the distribution of the state equalization aid by: (1) establishing each district's annual entitlement to state equalization aid, based on the data reported in the budget for each district that has been duly adopted for the current school fiscal year and verified by the superintendent of public instruction, and by applying such verified data under the provisions of the state equalization aid allocation procedure prescribed in section 75-6919;

State superintendent's duties.

Administration.

Determination of amount of aid.

(2) recommending to the board of education the annual entitlement of all districts to state equalization aid to enable the board of education to order the distribution of state equalization aid;

Recommendations to board.

(3) distributing by state warrant the state equalization aid for each district entitled to such aid, to the county treasurer of the county where the district is located, in accordance with the distribution ordered by the board of education;

Distribution by warrants.

(4) keeping a record in his office of the full and complete data concerning monies available for state equalization aid and the entitlements for state equalization aid of the several districts of the state;

Records.

(5) reporting to the board of education at its meeting in July and December of each year, the estimated amount which will be available for state equalization aid for the next succeeding six month period, commencing on July 1 and January 1; and

Reports of estimates—July and December.

(6) reporting to both branches of the state legislative assembly in any year when a session is convened the

Reports to legislative assembly.

HeinOnline -- 1971 vol. I 221 1971

figures and data available in his office concerning distributions of state equalization aid during the preceding two school fiscal years, the amount of state equalization aid then available, the apportionment made of such available monies but not yet distributed, and the latest estimate of accruals of monies available for state equalization aid.

Duty to apportion.

Section 269. Section 75-6919. **Formula for state equalization aid apportionment.** The superintendent of public instruction shall apportion the state equalization aid, individually for the elementary districts of a county or the high school districts of a county, in accordance with section 75-6918 and on the basis of the following procedure: (1) Determine the percentage that the total funds available to all counties in the state in support of the foundation program (including the state monies available for state equalization aid) is of the total amount of the foundation programs of all counties;

Procedure for determination.

(2) Determine the percentage that the total funds available in each county in support of the foundation programs in such county (excluding state monies available for state equalization aid) is of the total amount of the foundation programs of all districts of such county;

(3) Counties in which the percentage determined in subsection (2) exceeds the percentage determined in subsection (1) shall not be entitled to an apportionment of the state equalization aid;

(4) After elimination of the counties referred to in subsection (3), determine the percentage that the total monies available to all remaining counties in support of the foundation program (including the state monies available for state equalization aid) is of the total amount of the foundation programs of all such remaining counties;

(5) Each district of each remaining county shall be entitled to an apportionment of the state equalization aid which shall be the difference between the percentage determined in subsection (4) and the percentage determined for such county in subsection (2) multiplied by the foundation program amount for such district.

Reports to county.

The superintendent of public instruction shall supply the county treasurer and the county superintendent with a report of the apportionments of state equalization aid

HeinOnline -- 1971 vol. I 222 1971

to the several districts of the county and the state equalization aid shall be apportioned to such districts in accordance with such report.

Section 270. Section 75-6920. **Estimation of state equalization level and state equalization aid for budget purposes.** The apportionment of state equalization aid shall be the third source of revenue in calculating the financing of the elementary district foundation program and it shall be the second source of revenue in calculating the financing of the high school district foundation program. In order to allow for the estimation of the amount of money to be realized from this source of revenue when the county superintendent is estimating the general fund budget revenues, the superintendent of public instruction shall annually estimate a uniform percentage of each district's foundation program which state foundation program revenues and county equalization monies, together, will be capable of financing. Such estimate shall be called the "state equalization level" and shall be based on the best available data and calculated according to the allocation procedure provided in section 75-6919.

Source of revenue.

Annual estimate of uniform percentage.

"State equalization level."

The superintendent of public instruction shall notify each county superintendent of the state equalization level estimate by the first day of July. The county superintendent shall use such estimated state equalization level in establishing the budget estimate of the financing available for each district's foundation program for the ensuing school fiscal year.

Notice by July 1.

Use.

Section 271. Section 75-6921. **Additional county levy for state deficiency.** If the estimated state equalization level made under the provisions of section 75-6920 is less than one hundred per cent (100%), it shall be the duty of the county commissioners of each county to levy, separately for the elementary districts and the high school districts, additional taxes in such number of mills on the taxable value of all taxable property within the county as shall be required to complete the financing of the foundation programs of all elementary districts or all high school districts of the county.

Duty of county to levy additional taxes.

As provided in section 75-6805, the county treasurer shall keep a separate accounting of the proceeds realized from these mill levies. The county superintendent shall

Separate accounting.

HeinOnline -- 1971 vol. I 223 1971

Duty to apportion. apportion the proceeds of the mill levies to the elementary districts of the county or the high school districts of the county, whichever the case may be, on the following basis:

Procedure for determination. (1) Determine the total amount required from this source of revenue by the several elementary or high school districts of the county.

(2) Determine the total amount of monies available for this source of revenue.

(3) Calculate the percentage the amount determined in subsection (2) is of the amounts determined separately in subsection (1) for all elementary or all high school districts.

(4) Multiply each elementary district or each high school district requirement for this source of revenue by the percentage calculated in subsection (3).

When the total amount of the proceeds realized from these mill levies is greater than the requirements of all the elementary districts or high school districts of the county, whichever the case may be, the excess amount of county monies shall be retained by the county for reduction of the ensuing year's additional county levy for elementary schools or high schools.

Retention of excess monies.

"Additional county levy for state deficiency." The apportionment of county monies under this section shall be known as the "additional county levy for state deficiency" and it shall be the last source of revenue in calculating the financing of the elementary district foundation program and the high school district foundation program.

Computation by second Monday in August. The county superintendent shall compute the budgeted requirement for this source of revenue for each district and for the county, and shall supply the county requirements for the elementary district foundation programs and the high school district foundation programs to the county commissioners on the second Monday of August in accordance with section 75-6717.

Section 272. Section 75-6922. **Permissive levy.** Whenever the trustees of any district shall deem it necessary to adopt a general fund budget in excess of the foundation program amount but not in excess of the maximum general fund budget amount for such district as established by the schedule in section 75-6905, the trustees shall adopt a resolution stating the reasons and purposes for exceed-

Resolution.

HeinOnline -- 1971 vol. I 224 1971

ing the foundation program amount. The financing of such general fund budget amount shall be known as the "permissive levy," and it shall be financed by a levy on the taxable value of all taxable property within the district as prescribed in section 75-6926. "Permissive levy."

Section 273. Section 75-6923. **Additional levy for general fund and election for authorization to impose.** The trustees of any district may propose to adopt a budget in excess of the general fund budget amount for such district as established by the schedule in section 75-6905 for any of the following purposes: (1) building, altering, repairing or enlarging any schoolhouse of the district; Trustees may propose excess budget. Purposes.

(2) furnishing additional s c h o o l facilities for the district;

(3) acquisition of land for the district;

(4) proper maintenance and operation of the school programs of the district.

When the trustees of any district determine that an additional amount of financing is required for the general fund budget that is in excess of the statutory schedule amount, the trustees shall submit the proposition of an additional levy to raise such excess amount of general fund financing to the electors who are qualified, under section 75-6411, to vote upon such proposition. Such special election shall be called and conducted in the manner prescribed by this title for school elections. The ballot for such election shall state the amount of money to be raised by additional property taxation, the approximate number of mills required to raise such money, and the purpose for which such money will be expended, and it shall be in the following format: Special election. Ballot. Format.

PROPOSITION

Shall a levy be made in addition to the levies authorized by law in such number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy), and being approximately (give number) of mills, (insert the purpose for which the additional tax levy is made)?

☐ FOR the additional levy.

☐ AGAINST the additional levy.

HeinOnline -- 1971 vol. I 225 1971

Effect of approval. If the election on an additional levy for the general fund is approved by a majority vote of those electors voting at such election, the proposition shall carry and the trustees may use any portion or all of the authorized amount in adopting the preliminary general fund budget.

Certification. The trustees shall certify the additional levy amount authorized by such a special election on the budget form that is submitted to the county superintendent, and the

Additional levy. county commissioners shall levy such number of mills on the taxable value of all taxable property within the district as prescribed in section 75-6926, as are required to raise the amount of such additional levy.

Limitations. Authorization to levy an additional tax under the provisions of this section shall be effective for only one school fiscal year and shall be authorized by a special

August 1. election conducted before the first day of August of the school fiscal year for which it is effective. Only one such additional levy for the maintenance and operation of the school programs of a high school district may be imposed by a high school district in a given school fiscal year.

Section 274. Section 75-6924. **General fund cash reserve.** At the end of each school fiscal year, the trustees

Trustees shall designate cash reserve. of each district shall designate what portion of the general fund end-of-the-year cash balance shall be earmarked as cash reserve for the purpose of paying general fund warrants issued by the district from the first day of July to the last day of November of the ensuing school fiscal

Limitations. year. The amount of the general fund cash balance that

35%. is earmarked as cash reserve shall not exceed thirty-five percent (35%) of the final general fund budget for the ensuing school fiscal year and shall not be used for property tax reduction in the manner permitted by subsection (2) of section 75-6926 for other receipts. Any portion of the general fund end-of-the-year cash balance that is not earmarked for cash reserve purposes shall be

Property tax reduction. cash reappropriated which shall be used for property tax reduction as provided in subsection (2)(c) of section 75-6926.

Section 275. Section 75-6925. **Eligibility for and payment of state impact aid.** Any district which shall have

District eligibility for state impact aid. children of employees of a public institution may be eligible for state impact aid under the following provisions: (1) An "employee" means an employee of a

"Employee" defined. public institution under the administration of the depart-

HeinOnline -- 1971 vol. I 226 1971

ment of public institutions as defined in section 80-1403, R.C.M., 1947, who resides on the property of such a public institution;

(2) A school district shall receive annually from monies available for state equalization aid one hundred fifty dollars ($150) for each elementary pupil, and two hundred fifty dollars ($250) for each high school pupil, whose parents are employees of an institution located in the school district where the pupil attends school or in a school district which has a tuition agreement with the district where the pupil attends school; Computation.

(3) A district which is eligible for state impact aid shall apply for such aid to the superintendent of public instruction in the manner prescribed by the rules and regulations prescribed by the superintendent of public instruction; and Application.

(4) The distribution of state impact aid shall be deposited in the general fund of the district and shall not be considered as a part of the state equalization aid but shall be used to reduce the property tax in support of the general fund of the district. Deposit.

Section 276. Section 75-6926. **Computation of general fund net levy requirement by county superintendent.** The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure: (1) Determine the total of the district's non-isolated school foundation program requirement to be met by a district levy as provided in section 75-6906, the district's permissive levy amount as provided in section 75-6922, and any additional levies authorized by the electors of the district under the provisions of section 75-6923; except that the total of the permissive and additional levies shall not exceed the total amount of the final general fund budget less the foundation program. Duty to compute levy requirements. Procedure.

(2) Determine the total of the monies available for the reduction of the property tax on the district for the general fund by totaling:

(a) anticipated federal monies received under the provisions of Title I of Public Law 81-874 or other anticipated federal monies received in lieu of such federal act;

(b) anticipated tuition payments for out-of-district

HeinOnline -- 1971 vol. I 227 1971

pupils under the provisions of sections 75-6317, 75-6320, 75-7321 and 75-7203;

(c) general fund cash reappropriated, as established under the provisions of section 75-6924;

(d) anticipated state impact aid received under the provisions of section 75-6925;

(e) anticipated interest to be earned by the investment of general fund cash in accordance with the provisions of subsection (4) of section 75-6806; and

(f) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year which may be used to finance the general fund.

(3) Subtract the total of the monies available to reduce the property tax required to finance the general fund that has been determined in subsection (2) from the total levy requirement determined in subsection (1).

Report to county by second Monday in August.

(4) The net general fund levy requirement determined in subsection (3) shall be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund levy requirement for the district, and a levy shall be made by the county commissioners in accordance with section 75-6717.

Joint districts proration.

Section 277. Section 75-6927. **Proration and calculation of foundation program for a joint district.** In joint districts, the foundation program shall be prorated among the counties in which any part of the joint district is located for the purpose of determining the amount of each source of revenue for the foundation program for which each county is obligated. The proration of the joint district foundation program shall be calculated as follows: (1) Divide the joint district foundation program by the ANB of the joint district to determine the per ANB amount of the foundation program.

Calculation.

(2) Determine the ANB for each county's portion of the joint district on the basis of each pupil's resident county. When taken together, the sum of the ANB assigned to all the counties shall equal the total ANB for the joint district.

(3) Multiply the per ANB amount of the foundation program determined in subsection (1) by the ANB for

HeinOnline -- 1971 vol. I 228 1971

each county's portion as determined in subsection (2) to determine the portion of the foundation program for each county.

Basis for calculation.

The portion of a joint district foundation program for each county, as determined in subsection (3) of this section, shall be considered as a separate foundation program in such county for the purposes of calculating the various revenues for the foundation program. The interest and income monies available to joint elementary districts shall be considered as prorated to the several counties on the basis of each child's county of residence. After the calculation of the foundation program revenues, the remainder of the general fund revenues shall be calculated in accordance with the provisions for general fund financing.

Definitions.

Section 278. Section 75-7001. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

"Transportation."

"Transportation" shall mean: (1) a district's conveyance of a pupil by a school bus between his legal residence and the school designated by the trustees for his attendance; or

"Individual transportation."

(2) "individual transportation" whereby a district is relieved of actually conveying a pupil. Such individual transportation may include paying the parent or guardian for conveying the pupil, reimbursing the parent or guardian for the pupil's board and room, or providing supervised correspondence study or supervised home study.

"Eligible transportee."

An "eligible transportee" shall mean a public school pupil who: (1) is not less than six (6) years of age nor has attained his twenty-first (21st) birthday;

(2) is a resident of the State of Montana;

(3) regardless of district and county boundaries, resides at least three (3) miles, over the shortest practical route, from the nearest operating public elementary school or public high school, whichever the case may be; and

(4) is deemed by law to reside with his parent or guardian who maintains legal residence within the boundaries of the district furnishing the transportation regardless of where the eligible transportee actually lives when attending school.

HeinOnline -- 1971 vol. I 229 1971

"School bus" defined.

Section 279. Section 75-7002. **School bus definition and identification requirements.** A "school bus" shall mean any motor vehicle which is owned by a district or other public agency or by a carrier under contract with such a district or public agency, and which complies with the bus standards established by the board of education as determined by the Montana highway patrol's annual inspection of school buses and the superintendent of public instruction. Such bus may be operated by the district or other public agency for the conveyance of pupils or may be privately operated by a carrier to provide such conveyance of pupils under contract with a district or other public agency. Every school bus shall bear on the front and rear of the bus a plainly visible sign containing the words "school bus" in letters at least eight (8) inches in height. When a school bus is operated on a highway for purposes other than transporting pupils to and from school or for school functions, all markings identifying it as a school bus shall be concealed.

Operation.

Markings.

Exception.

Driver qualifications.

Section 280. Section 75-7003. **School bus driver qualifications.** Any driver of a school bus shall be qualified to drive such school bus by compliance with the following requirements: (1) he is not less than twenty-one (21) years of age;

At least 21.

Good moral character.

(2) he is of good moral character;

License.

(3) he is the holder of a chauffeur's license;

Medical examination.

(4) he has filed with the district a satisfactory medical examination report signed by a licensed physician of the State of Montana on a blank provided by the superintendent of public instruction;

First-aid.

(5) he has completed a standard first-aid course and holds a valid standard first-aid certificate from an authorized instructor. The issuance of such certificate shall be governed by rules and regulations established by the superintendent of public instruction, provided that such rules may suspend this requirement for a reasonable period of time where there has been an inadequate opportunity for securing the first-aid course and certificate;

Other.

(6) he has complied with any other qualifications established by the board of education; and

Certification.

(7) he has filed with the county superintendent a certificate from the trustees of the district for which the

HeinOnline -- 1971 vol. I 230 1971

school bus is to be driven certifying compliance with the several driver qualifications enumerated in this section.

Section 281. Section 75-7004. **Duties of board of education.** The board of education, by and with the advice of the chief of the Montana highway patrol and the superintendent of public instruction, shall adopt and enforce policies, not inconsistent with the motor vehicle code, to provide uniform standards and regulations for the design, construction and operation of school buses in the State of Montana. Such policies shall: (1) prescribe minimum standards for the design and construction of school buses not inconsistent with:

Duties of board education.

Uniform standards for school buses.

Minimum standards.

(a) the minimum standards adopted by the national commission on safety education; or

(b) the minimum standards adopted by the national highway safety bureau.

(2) prescribe standards and specifications for the lighting equipment and special warning devices to be carried by school buses in conformity with:

(a) the current specifications approved by the society of automobile engineers;

(b) the motor vehicle code; and

(c) the requirement that all school buses shall have an alternately flashing pre-warning lighting system of four amber signal lamps to be used while preparing to stop and an alternately flashing warning lighting system of four red signal lamps to be used while stopped in accordance with section 32-21-132, R.C.M., 1947.

(3) establish any other driver qualifications that may be deemed necessary in addition to the qualifications required in section 75-7003.

Other driver qualifications.

(4) prescribe criteria for the establishment of transportation service areas for school bus purposes by the county transportation committee which shall allow for the establishment of such areas without regard to the district boundary lines within the county.

Service areas.

(5) prescribe any other criteria for the determination of the residence of a pupil that may be deemed necessary in addition to the criteria established in section 75-7016.

Criteria for residence.

HeinOnline -- 1971 vol. I 231 1971

Operation of school buses. (6) prescribe any other policies for the operation of school buses which are not inconsistent with the motor vehicle code, the minimum standards adopted by the national commission on safety education for school bus operation, the highway safety standards, and the transportation programs that are not inconsisted with the transportation provisions of this title.

"Rated capacity." (7) prescribe standards for the measurement of the child seating capacity of school buses, to be known as the "rated capacity."

Schedule of rates. The board of education shall promulgate a schedule that establishes the basis for increasing the individual transportation rates due to isolation as provided in subsection (3) of section 75-7019. The board of education also shall prescribe any other policy necessary for the proper administration and operation of individual transportation programs that are not inconsistent with the transportation provisions of this title.

Operation of individual programs.

Section 282. Section 75-7005. **Duties of the superintendent of public instruction.** In order to have a uniform and equal provision of transportation by all districts in the State of Montana, the superintendent of public instruction shall: (1) prescribe rules, regulations, and forms for the implementation and administration of the transportation policies adopted by the board of education;

Duties of superintendent of public instruction.

Transportation policies.

School bus routing. (2) prescribe rules and regulations for the approval of school bus routing by the county transportation committee;

Contracts. (3) prescribe the format of the contract for individual transportation and supply each county superintendent with a sufficient number of such contracts;

Individual contracts. (4) prescribe rules and regulations for the approval of individual transportation contracts, including the increases of the schedule rates due to isolation under the policy of the board of education;

School bus routing. (5) approve, disapprove, or adjust all school bus routing submitted by the county superintendent;

Individual contracts. (6) approve, disapprove, or adjust all individual transportation contracts submitted by the county superintendent;

Controversies. (7) prescribe rules and regulations for the considera-

HeinOnline -- 1971 vol. I 232 1971

tion of controversies appealed to him, and rule on such controversies; and

(8) disburse the state transportation reimbursement in accordance with the provisions of law and the transportation policies of the board of education. Reimbursement.

Section 283. Section 75-7006. **Penalty for violating law, board of education policies or superintendent of public instruction rules and regulations.** Every district, its trustees and employees, and every person under a transportation contract with a district shall be subject to the policies prescribed by the board of education and the rules and regulations prescribed by the superintendent of public instruction. Any trustee or district employee who violates any transportation law or board of education transportation policy or who fails to include as a condition in any district transportation contract the obligation to comply with such law or policies shall be guilty of misconduct and subject to removal from office or employment by proceedings instituted in any court of competent jurisdiction by the county attorney of the county where the district is located. Any person operating a bus under contract with a district who fails to comply with the transportation law or the board of education transportation policies shall be guilty of breach of contract and the contract shall be cancelled after notice and hearing by the trustees of such district. Penalties for violation of school transportation rules and regulations.

Section 284. Section 75-7007. **Duties of school bus driver and driver of any vehicle when school bus is stopped or at railroad crossing, and penalty for failure to comply.** When outside the limits of an incorporated city or town, the driver of a vehicle, when approaching the front or rear of a school bus that has come to a stop on a public road and has its alternately flashing warning lighting system of four red signal lamps in operation and is receiving or discharging school children, shall stop his vehicle not less than ten (10) feet from such school bus and keep said vehicle stationary until the children have entered the school bus or have alighted and reached the side of the highway on which they live, and the school bus has resumed motion, or the driver has signaled traffic to proceed. Duties of vehicle operator with respect to school buses.

The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school Exceptions.

HeinOnline -- 1971 vol. I 233 1971

bus which is on a different roadway, or when upon a controlled access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

Unlawful to operate lights unless stopping.

It shall be unlawful to operate any flashing prewarning or warning signal light on any school bus except when the school bus is preparing to stop or is stopped for the purpose of permitting school children to board or alight from the bus.

Duty to stop at railroads.

Open door.

Listen and look.

The driver of any school bus, before crossing any track or tracks of a railroad at grade, shall stop the school bus within fifty (50) feet, but not less than fifteen (15) feet, from the nearest rail of such track and while stopped shall open the door and shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until he can do so safely. After stopping and proceeding when it is safe to do so, the driver of any school bus shall cross only in a gear of the vehicle that will not necessitate the changing of gears while traversing the crossing, and the driver shall not shift gears while crossing the track or tracks. No stop need be made at any crossing where a police officer or a traffic-control signal directs traffic to proceed.

Shifting gears prohibited.

Exception.

Penalties for violations.

Any person who shall fail to comply with or who shall violate the provisions of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars ($10) nor more than one hundred dollars ($100), or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Section 285. Section 75-7008. **Duty of trustees to provide transportation, types of transportation, and bus riding time limitation.** The trustees of any district may furnish transportation to an eligible transportee who attends a school of the district or has been granted permission to attend a school outside of the district. Whenever the trustees of a district provide transportation for any eligible transportee, the trustees must provide all eligible transportees of the district with transportation. The trustees shall furnish transportation when directed to do so by the county transportation committee and such

Trustees may provide transportation—eligible transportees.

Equal treatment.

Transportation required.

HeinOnline -- 1971 vol. I 234 1971

direction is upheld by the superintendent of public instruction. The parent or guardian of an eligible transportee may, at his discretion, provide transportation or arrange for transportation for his child at his own expense to any district willing to accept his child.

Private transportation.

The type of transportation provided by a district may be (1) by a school bus; or

Allowable types of transportation.

(2) by such individual transportation as:

(a) paying the parent or guardian for individually transporting the pupil;

(b) paying board and room reimbursements;

(c) providing supervised correspondence study; or

(d) providing supervised home study.

When the parent or guardian of an elementary pupil consents to a trip of over one (1) hour, the trustees may require such eligible transportee to ride a school bus for more than one (1) hour per trip.

One hour trips.

Section 286. Section 75-7009. **Discretionary provision of transportation and payment for this transportation.** The trustees of any district also may provide school bus transportation to any pupil of a public school who is not an eligible transportee of the district under the following conditions: (1) On a school bus conveying eligible transportees when the ineligible transportee will not displace an eligible transportee from such school bus because of the lack of seating capacity.

Discretionary transportation—ineligible transportees.

(2) On a school bus operated by the district for the sole purpose of providing transportation for ineligible transportees. Such school bus shall service those children living the greatest distance from the school to be attended.

(3) On a school bus operated for the purpose of relieving congestion in a school building, or to avoid the necessity of erecting a new building, or for any other reasons of economy or convenience.

When the trustees of a district provide school bus transportation to an ineligible transportee under the conditions of subsections (1) or (2) above, the district may charge each ineligible transportee his proportionate share, as determined by the trustees, of the cost of operating

Charges.

HeinOnline -- 1971 vol. I 235 1971

Deposit.

such school bus. Money realized from such payments shall be deposited to the credit of the transportation fund.

Nonpublic schools—permit to ride school bus.

Section 287. Section 75-7010. **Provision of transportation for nonpublic school children.** Any child attending a nonpublic school may ride a school bus when a permit to ride such school bus is secured from the operating district by the parent or guardian of such nonpublic school child, and when there is seating capacity available on such school bus. When a nonpublic school child rides a school bus, the operating district shall charge such child his proportionate share, as determined by the trustees, of the cost of operating such school bus. Money realized from such payments shall be deposited to the credit of the transportation fund.

Charges.

Deposit.

Powers of trustees—school transportation.

Section 288. Section 75-7011. **Power of trustees to purchase and operate bus, contract for bus services, operate a two-way radio, and insure either type of bus.** The trustees of any district shall have the power to: (1) purchase or rent a school bus;

(2) purchase or rent a two-way radio for a school bus when the trustees authorize a two-way radio as standard equipment in a school bus because such bus is operated where weather and road conditions may constitute a hazard to the safety of the school pupil passengers;

(3) provide for the operation, maintenance and insurance of a school bus or a two-way radio owned or rented by the district; or

(4) contract with a private party for the transportation of eligible transportees and such contract shall not exceed the term of five (5) years.

Two-way radio frequencies.

When the trustees authorize a two-way radio as standard equipment on a school bus, the two-way radio may be operated on the same frequency as that used by the Montana highway patrol and the sheriff of the county when their permission and the permission of the federal communications commission is secured. If permission is not secured from these agencies, the frequency assigned by the federal communications commission shall be used for the operation of the two-way radios.

Contracts with private parties—duties.

When the trustees contract with any private party to provide transportation to eligible transportees, the private party shall comply in every respect with the regula-

HeinOnline -- 1971 vol. I 236 1971

tions of the board of education for the standards of equipment, operation and safety of the school bus, and qualifications of the driver. The trustees may, in contracting with private parties, require added safeguards by supplementing the board of education policies in the contract with additional requirements for bus specifications, age of drivers, liability insurance, operating speed or any other contractual condition deemed necessary by the trustees.

Liability insurance coverage.

Whenever a bus is owned and operated by a district or the bus is operated by a private party under a contract but no condition of such contract requires the private party to carry liability insurance, the trustees shall carry automobile bodily injury and liability insurance in an amount not less than seven thousand five hundred dollars ($7,500) per person and fifty thousand dollars ($50,000) for each accident for each bus operated by or under contract with the district.

Installment contracts—3 year limitation.

When a district purchases a school bus, the trustees may purchase such school bus under an installment contract which will be completely executed within three years from the date of the purchase. The trustees also may purchase a school bus without advertising for bids under the provisions of section 75-6808.

Advertising for bids not required.

Section 289. Section 75-7012. **Contracts for transportation.** Any school bus transportation by a private party or individual transportation that is furnished by a district shall be under contract and no district, county or state money shall be paid for such transportation services to any person or firm who does not hold a legal contract with the district. Transportation contracts for the ensuing year shall be completed by the fourth Monday of June except when an eligible transportee establishes residence in the district after the fourth Monday of June and a contingency amount is included in the regular transportation budget or an emergency transportation budget is adopted. (1) Transportation contracts between a district and a private party for the provision of school bus transportation shall be subject to the following requirements:

Legal transportation contract required.

Fourth Monday in June.

Private contract requirements.

Distribution of copies.

(a) The contract shall be completed in quadruplicate and, upon completion, one copy shall be for the county superintendent, one copy for the private party, one copy

HeinOnline -- 1971 vol. I 237 1971

for the superintendent of public instruction and one copy shall be retained by the district.

Conformance to law.

(b) The contract terms shall require conformance to the transportation law, policies of the board of education and rules and regulations of the superintendent of public instruction; and

Signing.

(c) The contract shall be signed by the chairman of the trustees and the private party.

Individual transportation contract requirements.

(2) A transportation contract between a parent or guardian of an eligible transportee and a district for the provision of individual transportation shall be subject to the following requirements:

Distribution of copies.

(a) It shall be completed in quadruplicate and, upon approval, one copy shall be for the parent or guardian, one copy for the district, one copy for the county superintendent, and one copy for the superintendent of public instruction;

Forms.

(b) It shall be completed on forms promulgated by the superintendent of public instruction;

Affidavit of residence.

(c) The parent or guardian shall sign an affidavit attesting to the place of residence of his child or children; and

Signing.

(d) It shall be signed by the chairman of the trustees and the parent or guardian of the eligible transportees.

Bids required for private contracts.

Section 290. Section 75-7013. **Bid letting for contract bus and payments under any transportation contract.** Before any contract with a private party for the provision of school bus transportation is awarded, the trustees shall

Publication—three calls in 21 days.

secure bids by publishing at least three (3) calls for bids in a newspaper of the county that will give notice to the largest number of people of the district or in the official newspaper of the county during a period of twenty-one (21) days.

Letting.

The trustees shall let the contract to the lowest responsible bidder and the trustees shall have the

Rejection.

right to reject any and all bids. The provisions of this section for awarding a contract for school bus transportation shall be subject to the provisions of section 75-6808.

Limitations on expenditures for school bus transportation.

The trustees shall not expend any monies of the district for school bus transportation by a private party or for individual transportation unless: (1) a contract for such transportation services has been completed; and

HeinOnline -- 1971 vol. I 238 1971

(2) such contracted services for school bus transportation by a private party have been actually furnished except that the failure to perform may be excused by the trustees for reasons not under the control of the contractor; or

(3) such contracted services for individual transportation have been actually furnished as confirmed by the actual attendance of school by the eligible transportees and recorded on the school attendance records or, in the case of a supervised correspondence course or supervised home study, as confirmed by the trustees; except that the contracted services furnished one way on any school day shall be reimbursed at one-half (½) the daily contract amount.

Section 291. Section 75-7014. **County transportation committee membership.** To coordinate the orderly provision of a uniform transportation program within a county under the transportation law, board of education transportation policies, and the transportation rules and regulations of the superintendent of public instruction, there shall be a county transportation committee created in each county of the state of Montana. The membership of the county transportation committee shall be: (1) the county superintendent;

Composition county transportation committee.

(2) the chairman of the board of county commissioners or a member of such board designated by the chairman;

(3) a trustee or district employee designated by the trustees of each high school district of the county;

(4) one representative from each high school district of the county who is a trustee of an elementary district encompassed within the high school district and who has been selected at a meeting of the trustees of such elementary districts; and

(5) a representative of a district of another county when the transportation services of such a district are affected by the actions of the transportation committee, but such a representative shall have a voice only in matters affecting transportation within such district or by such district.

The county transportation committee shall have at least five members and if this minimum membership can-

Minimum—5 members.

HeinOnline -- 1971 vol. I 239 1971

not be realized in the manner prescribed in subsections (1), (2), (3) and (4) above, the county superintendent shall appoint a sufficient number of members to satisfy the minimum membership requirement.

Chairman. Quorum. Meetings on call.

The county superintendent shall be the chairman of the county transportation committee and a quorum shall consist of a majority of the membership. The county transportation committee shall meet on the call of the chairman or any three members of such committee.

Duties. Service areas.

Section 292. Section 75-7015. **Duties of the county transportation committee.** It shall be the duty of the county transportation committee to: (1) establish the transportation service areas within the county, without regard to district boundary lines, which will define the geographic area of responsibility for school bus transportation for each district that operates a school bus transportation program;

Routing.

(2) approve, disapprove, or adjust the school bus routing submitted by the trustees of each district in conformity with the transportation service areas established in subsection (1);

Reimbursements.

(3) approve, disapprove, or adjust applications, approved by the trustees, for increased reimbursements for individual transportation due to isolated conditions of the eligible transportee's residence; and

Hearings on appeals.

(4) conduct hearings to establish the facts of transportation controveries which have been appealed from the decision of the trustees, and act on such appeals on the basis of the facts established at such hearing.

Appeal.

After a fact-finding hearing and decision on a transportation controversy, the trustees or a patron of the district may appeal such decision to the superintendent of public instruction who shall render a decision on the basis of the facts established at the county transportation committee hearing.

Transfer.

The trustees of any district which objects to a particular school bus route or transportation service areas to which it has been assigned may request a transfer to another school bus route or transportation service area. The county transportation committee may transfer the territory of such district to an adjacent district's transporta-

HeinOnline -- 1971 vol. I 240 1971

tion service area or approved school bus route with the consent of such adjacent district. When the qualified electors of the district object to the decision of the county transportation committee and the adjacent district is willing to provide school bus service, twenty per cent (20%) of the qualified electors, as prescribed in section 75-6410, may petition the trustees to conduct an election on the proposition that the territory of such district be transferred for school bus transportation purposes to such consenting, adjacent district. When a satisfactory petition is presented to the trustees, the trustees shall call an election in accordance with section 75-6406 for the next ensuing regular school election day. Such election shall be conducted in accordance with the school election laws. If a majority of those voting at such election approve the transfer, it shall become effective on the first day of July of the ensuing school fiscal year.

Petition—20% of qualified electors.

Election.

Conduct.

Effective date on approval—July 1.

Unless a transfer of a district from one transportation service area or approved school bus route to another such area or route is approved by the county transportation committee and the superintendent of public instruction, the state transportation reimbursement shall be limited to the reimbursement amount for school bus transportation to the nearest operating public elementary school or public high school, whichever is appropriate for the affected pupils.

Limitation on state reimbursement.

Section 293. Section 75-7016. **Determining residence.** When the residence of an eligible transportee is a matter of controversy and is an issue before a board of trustees, a county transportation committee, or the superintendent of public instruction, such residence shall be established on the basis of the general state residence law as provided in section 83-303, R.C.M., 1947. Where any district or county is determined to be responsible for paying tuition for any pupil in accordance with sections 74-6313, 75-6314, and 75-6316, the residence of the pupil for tuition purposes shall be the residence of such pupil for transportation purposes.

Basis for determining residence in controversy.

Section 294. Section 75-7017. **Determination of mileage distances.** When the mileage district that transportation services are to be provided is a matter of controversy and is an issue before a board of trustees, a county transportation committee or the superintendent of public

Basis for determining mileage district in controversy.

HeinOnline -- 1971 vol. I 241 1971

Measurement.

instruction, such mileage shall be established on the following basis. (1) The distance in mileage shall be measured by a vehicle equipped with an accurate odometer.

(2) A representative of the applicable district and a parent or guardian of the child to be transported shall be present when the distance is measured;

(3) The measurement shall begin six (6) yards from the family home and ends six (6) yards from the entrance of the school grounds closest to the route; and

Route must be reasonably passable.

(4) The route traversed for the measurement shall be the route designated by the trustees, except that such route shall be reasonably passable during the entire school fiscal year by the vehicle that provides the child's transportation. In determining reasonable passage, a route shall not be disqualified because it is impassable during temporary, extreme weather conditions such as rains, snow, or floods.

Maximum reimbursement—bus mileage rates.

Section 295. Section 75-7018. **Schedule of maximum reimbursement by bus mileage rates.** The following bus mileage rates for school bus transportation constitute the maximum reimbursement to districts for school bus transportation from state and county sources of transportation revenue under the provisions of sections 75-7022 and 75-7023. These rates shall not limit the amount which a district may budget in its transportation fund budget in order to provide for the estimated and necessary cost of school bus transportation during the ensuing school fiscal year. The operation of any vehicle reimbursed under the rate provisions of this schedule shall be a school bus, as defined by this title, driven by a qualified driver on a bus route approved by the county transportation committee and the superintendent of public instruction.

Determination.

(1) The rate per bus mile traveled shall be determined in accordance with the following schedule when the number of eligible transportees boarding such school bus on an approved route is not less than seventy-five per cent (75%) of its rated capacity:

(a) twelve cents ($.12) per bus mile for a school bus with a rated capacity of six (6) children or less:

(b) fifteen cents ($.15) per bus mile for a school bus with a rated capacity of not less than seven (7) but not more than eleven (11) children;

HeinOnline -- 1971 vol. I 242 1971

(c) twenty cents ($.20) per bus mile for a school bus with a rated capacity of not less than twelve (12) but not more than thirty (30) children; and

(d) when the rated capacity is more than thirty (30) children, an additional one-half cent ($.005) per bus mile for each additional child in the rated capacity in excess of thirty (30) shall be added to a base rate of twenty cents ($.20) per bus mile.

(2) When the number of eligible transportees boarding a school bus on an approved route is less than seventy-five per cent (75%) of its rated capacity, the rate per bus mile traveled shall be computed as follows:

(a) determine the number of eligible transportees boarding the school bus on such route;

(b) multiply the number determined in subsection (a) by twenty-five per cent (25%) and round-off to the nearest whole number;

(c) add the amount calculated in subsection (b) to the number determined in subsection (a) to determine the adjusted rated capacity for the bus; and

(d) use the adjusted rated capacity determined in subsection (c) as the rated capacity of such bus to determine the rate per bus mile traveled from the rate schedule in subsection (1) above.

Rated capacity defined.

The rated capacity shall be the number of riding positions of a school bus as determined under the policy adopted by the board of education.

Section 296. Section 75-7019. **Schedule of maximum reimbursement for individual transportation including provisions for isolation, room and board, and supervised study programs.** The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of sections 75-7022 and 75-7023. These rates also shall constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall

Rates for maximum reimbursement—individual transportation.

HeinOnline -- 1971 vol. I 243 1971

Determination. reimburse the parent or guardian on the basis of the following schedule: (1) When the parent or guardian pro-

Private conveyance. vides the transportation conveyance, the following per diem rates shall be used to determine the total reimbursable amount for all eligible transportees residing in one household, including both elementary and high school pupils; except that eligible transportees shall be considered as coming from separate households when such eligible transportees are required by the trustees to attend schools in entirely separate communities and cannot be transported by the same conveyance or cared for in the same community. When the distance from the eligible transportee's residence to his assigned school is:

(a) not less than three (3) miles but less than five (5) miles, the rate shall be thirty cents ($.30) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed sixty-six cents ($.66) for all the eligible transportees of one household;

(b) not less than five (5) miles but less than seven (7) miles, the rate shall be thirty-six cents ($.36) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed eighty-four cents ($.84) for all the eligible transportees of one household.

(c) not less than seven (7) miles but less than twelve (12) miles, the rate shall be forty-eight cents ($.48) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed one dollar and eight cents ($1.08) for all the eligible transportees of one household; or

(d) twelve (12) or more miles, the rate shall be sixty cents ($.60) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed one dollar and twenty cents ($1.20) for all the eligible transportees of one household.

Private conveyance to school bus route. (2) When the parent or guardian provides the transportation conveyance from the eligible transportee's residence to an approved route of the school bus designated by the trustees for the transportation of such eligible transportee, the per diem rates prescribed in subsection (1) shall be used to determine the reimbursable amount for such transportation on the basis of the distance from

HeinOnline -- 1971 vol. I 244 1971

the residence to such bus route. When the distance from the eligible transportee's residence to the approved bus route is not less than one and one-half (1½) miles but less than three (3) miles, the reimbursement rate shall be one-half (½) the rate prescribed in subsection (1) (a) above. No transportation reimbursement shall be paid to a parent or guardian when the distance is less than one and one-half (1½) miles.

(3) Where, due to excessive distances, impassable roads or other special circumstances of isolation, the rates prescribed in subsections (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, his parent or guardian may request an increase in the reimbursement rate. Such a request for increased rates due to isolation shall be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances which exist to justify the increase. Before any increase rate due to isolation can be paid to the requesting parent or guardian, such rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the county transportation committee and the superintendent of public instruction, the trustees shall pay such increased rate due to isolation. The board of education shall promulgate a schedule that allows varying percentage increases of the per-day individual transportation rates prescribed in subsections (1) and (2) in relation to the degree of isolation, except that such increases shall not exceed one hundred per cent (100%).

Inadequate reimbursement.

Request for increase.

Approval.

Isolation.

Schedule.

(4) When the isolated conditions of the household where an eligible transportee resides require such eligible transportee to live away from the household in order to attend school, he shall be eligible for the room and board reimbursement. Approval to receive the room and board reimbursement shall be obtained in the same manner prescribed in subsection (3) above. The per diem rate for room and board shall be one dollar and fifty cents ($1.50) for one eligible transportee, sixty cents ($.60) for a second eligible transportee of the same house-

Room and board.

Per diem rates.

HeinOnline -- 1971 vol. I 245 1971

hold and thirty cents ($.30) for each additional eligible transportee of the same household.

Home study.

(5) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate shall be the cost of such study; provided that the course of instruction is approved by the trustees and supervised by the district.

Approval.

Alteration of schedules.

(6) The schedules provided in this section shall not be altered by any authority other than the legislative assembly of the state of Montana, except as provided in subsection (3).

Section 297. Section 75-7020. **Budgeting for transportation and transmittal of transportation contracts.** The trustees of any district furnishing transportation to pupils who are residents of such disttrict shall have the authority and it shall be their duty to provide a transportation fund budget that is adequate to finance such district's transportation contractual obligations and any other transportation expenditures necessary for the conduct of its transportation program. The transportation fund budget shall include: (1) an adequate amount to finance the maintenance and operation of district owned and operated school buses;

Trustees duty to provide transportation fund budget.

Required amounts.

(2) the annual contracted amount for the maintenance and operation of school buses by a private party;

(3) the annual contracted amount for individual transportation, including any increased amount due to isolation, which shall not exceed the schedule amounts prescribed in section 75-7019;

(4) any amount necessary for the purchase, rental, or insurance of school buses; and

(5) any other amount necessary to finance the administration, operation or maintenance of the transportation program of the district, as determined by the trustees. The trustees may include a contingency amount in the transportation fund budget for the purpose of enabling the district to fulfill any obligation to provide transportation in accordance with the transportation law for any pupils not residing in the district at the time of the adoption of the preliminary budget and who subse-

HeinOnline -- 1971 vol. I 246 1971

quently became residents of such district during the school fiscal year or pupils who have become eligible transportees since the adoption of the preliminary budget because his legal residence has been changed. The budgeted contingency amount shall not exceed ten per cent (10%) of the transportation schedule amount as calculated under the provisions of sections 75-7018 and 75-7019 for all transportation services authorized by such schedule and provided by the district; unless ten per cent (10%) of such transportation schedule amount shall be less than one hundred dollars ($100), in which case one hundred dollars ($100) shall be the maximum limitation for such budgeted contingency amount.

Emergency transportation fund budget.

As provided in section 75-6724 an emergency transportation fund budget may be adopted subject to the provisions of the emergency budgeting law.

Reports.

Adoption.

Distribution of copies of contracts.

The transportation fund budgeted expenditures appropriated by the trustees shall be reported on the regular budget form prescribed by the superintendent of public instruction in accordance with section 75-6704 and the adoption of the transportation fund budget shall be completed in accordance with the school budgeting laws. When the adopted preliminary budget is sent to the county superintendent, the trustees also shall send copies of all completed transportation contracts for school bus transportation and individual transportation to the county superintendent. Such contracts shall substantiate all contracted transportation services incorporated in the preliminary budget; and, after the county superintendent has utilized the contracts for such purpose but before the fourth Monday of July, he shall send all the transportation contracts received by him to the superintendent of public instruction. When the county superintendent determines a deviation between the preliminary transportation fund budget amount for contracted transportation services and the contracted amount for such services, he shall immediately call the deviation to the attention of the appropriate trustees and shall allow the trustees to change the preliminary budgeted amount to compensate for such deviation.

Fourth Monday of July.

Deviation procedure.

Section 298. Section 75-7021. **Computation of revenues and net tax levy requirements for the transportation fund**

HeinOnline -- 1971 vol. I 247 1971

Before fourth Monday in July—computation of revenue.

budget. Before the fourth Monday of July and in accordance with section 75-6712, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis: (1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in sections 75-7018 and 75-7019 shall be determined by adding the following amounts:

Basis. "Schedule amount" determination.

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district. To determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district; plus

(b) the total of all individual transportation per diem reimbursement rates for such district as determined from the contracts submitted by the district multiplied by the number of pupil instruction days scheduled for the ensuing school attendance year; plus.

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in section 75-7020, except if such amount exceeds ten per cent (10%) of the total of subsections (a), (b), and (c) or one hundred dollars ($100) whichever is larger, the contingency amount on the preliminary budget shall be reduced to such limitation amount and used in this determination of the schedule amount.

One-third used to determine available revenue.

(2) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, shall be divided by three (3) and the resulting one-third (1/3) amount shall be used to determine the available state and county revenue to be budgeted on the following basis:

(a) the resulting one-third (1/3) amount shall be the budgeted state transportation reimbursement except that the state transportation reimbursement for the trans-

HeinOnline -- 1971 vol. I 248 1971

portation of special education pupils under the provisions of section 75-7815 shall be two-thirds of the schedule amount attributed to the transportation of special education pupils;

(b) the resulting one-third (1/3) amount except as provided for joint elementary districts in subsection (2) (e) shall be the budgeted county transportation reimbursement for elementary districts and shall be financed by the basic county tax under the provisions of section 75-6914;

(c) the resulting one-third (1/3) amount multiplied by two shall be the budgeted county transportation reimbursement amount for high school districts financed under the provisions of subsection (5) of this section except as provided for joint high school districts in subsection (2) (e) and except that the county transportation reimbursement for the transportation of special education pupils under the provisions of section 75-7815 shall be one-third (1/3) of the schedule amount attributed to the transportation of special education pupils;

Excess cash—reduction of financing obligation.

(d) when the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of such district revenue and cash reappropriated shall be used to reduce the county financing obligation in subsections (b) or (c) and, if such county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (a); and

Joint districts—proration.

(e) the county revenue requirement for a joint district, after the application of any district monies under subsection (2) (d) above, shall be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each such county.

Determination of monies for reduction of property tax.

(3) The total of the monies available for the reduction of property tax on the district for the transportation fund shall be determined by totaling:

(a) anticipated federal monies received under the provisions of Title I of Public Law 81-874 or other anticipated federal monies received in lieu of such federal act; plus

HeinOnline -- 1971 vol. I 249 1971

(b) anticipated payments from other districts for providing school bus transportation services for such district; plus

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child, plus

(d) anticipated interest to be earned by the investment of transportation fund cash in accordance with the provisions of subsection (4) of section 75-6806; plus

(e) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year which may be used to finance the transportation fund; plus

(f) any cash available for reappropriation as determined by subtracting the amount of the end-of-the-year cash balance earmarked as the transportation fund cash reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the transportation fund. Such cash reserve shall not be more than twenty per cent (20%) of the final transportation fund budget for the ensuing school fiscal year and shall be for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

Limitation on cash reserve—20% of final budget.

Computation of district levy.

(4) The district levy requirement for each district's transportation fund shall be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount and, for an elementary district, adding such difference to the district obligation to finance one-third (1/3) of the schedule amount as determined in subsection (2); and

(b) subtracting the amount of monies available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4) (a), above.

County levy requirement.

(5) The county levy requirement for the financing of the county transportation reimbursement to high school districts shall be computed by adding all such requirements for all the high school districts of the county, including the county's obligation for reimbursements in joint high school districts.

HeinOnline -- 1971 vol. I 250 1971

(6) The transportation fund levy requirements determined in subsection (4) for each district and in subsection (5) for the county shall be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district and for the county, and such levies shall be made by the county commissioners in accordance with section 75-6717.

Report on second Monday in August.

Section 299. Section 75-7022. **State transportation reimbursement.** Any district providing school bus transportation or individual transportation in accordance with the transportation law, board of education transportation policy, and superintendent of public instruction transportation rules and regulations shall receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of sections 75-7018 and 75-7019. The state transportation reimbursement shall not exceed one-third (1/3) of the reimbursement amounts established in such sections or one-third (⅓) of the district's transportation fund budget, whichever is smaller, and shall be computed on the basis of the number of days the transportation services were actually rendered. In determining the amount of the state transportation reimbursement, no amount claimed by a district shall be considered for reimbursement unless such amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

State reimbursement for transportation expenditures.

Limitation.

Computation.

Requests for the state transportation reimbursement shall be made by each district semiannually during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public instruction. The claims for state transportation reimbursements shall be routed by the district to the county superintendent, who after reviewing such claims shall send them to the superintendent of public instruction. The superintendent of public instruction shall establish the validity and accuracy of the claims for the state transportation reimbursements by determining their compliance with the transportation law, board of education transportation policy, and the transportation rules and regulations of the superintendent of public instruction. After making any necessary adjustments to such claims, he shall cause their payment by ordering a disbursement from the state

Semiannual requests by districts.

Routing of claims.

Order of disbursement.

HeinOnline -- 1971 vol. I 251 1971

monies appropriated by the legislative assembly of the state of Montana for the state transportation reimbursement. Such payment of all the district's claims within one county shall be made to the county treasurer of such county and the county superintendent shall apportion such payment in accordance with the apportionment order supplied by the superintendent of public instruction.

Apportionment order.

Section 300. Section 75-7023. **County transportation reimbursement.** The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with the transportation law, board of education transportation policy, and the transportation rules and regulations of the superintendent of public instruction shall be the same as the state transportation reimbursement payment except that: (1) the high school apportionment of the county transportation reimbursement shall be twice the state transportation reimbursement payment;

County transportation reimbursement apportionment.

Exception.

Limitation.

(2) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of subsection (2) (d) of section 75-7021, the annual apportionment shall be limited to such budget amount;

Adjustment.

(3) when a district receives a state transportation reimbursement of two-thirds (2/3) the schedule amount for the transportation of special education pupils, the apportionment of the high school county transportation reimbursement shall be adjusted to provide only a one-third (1/3) high school county reimbursement of the transportation of special education pupils; and

(4) when the county transportation reimbursement for a school bus has been prorated between two (2) or more counties because such school bus is conveying pupils of more than one (1) district located in such counties, the apportionment of the county transportation reimbursement shall be adjusted to pay the amount computed under such proration.

Adjustment.

Source of funds.

The county superintendent shall apportion the elementary county transportation reimbursement from the proceeds of the county basic levy and the high school county transportation reimbursement from the proceeds of the county tax for high school transportation. The county superintendent shall order the county treasurer to make

Order to county treasurer.

HeinOnline -- 1971 vol. I 252 1971

such apportionments in accordance with subsection (2) of section 75-6805 and after the receipt of the semiannual state transportation reimbursement payments.

Section 301. Section 75-7024. **Bus depreciation reserve.** The trustees of any district owning a school bus or a two-way radio used for transportation purposes may establish a bus depreciation reserve fund for the purpose of replacing such bus or radio. When a bus depreciation reserve fund is established, the trustees may include in the district's budget, in accordance with the school budgeting provisions of this title, an amount each year that does not exceed twenty per cent (20%) of the original cost of a school bus or a two-way radio for transportation purposes. The annual revenue requirement for each district's bus depreciation reserve fund, determined within the limitations of this section, shall be reported by the county superintendent to the county commissioners on the second Monday of August as the bus depreciation reserve fund levy requirement for such district, and a levy shall be made by the county commissioners in accordance with section 75-6717.

Trustees may establish bus depreciation reserve.

Budget 20% of cost.

Report.

Second Monday in August. Levy.

Any expenditure of bus depreciation reserve fund monies shall be within the limitations of the district's final bus depreciation reserve fund budget and the school financial administration provisions of this title and shall be made only for the purchase of buses or radios to replace the buses or radios for which the bus depreciation reserve fund was created.

Expenditure for replacements.

Whenever the trustees of a district maintaining a bus depreciation reserve fund deem it to be within the best interests of the district to transfer any portion or all of the bus depreciation reserve cash balance to any other fund maintained by the district, it shall submit such proposition to the electors of the district. The electors qualified to vote at the election shall qualify under section 75-6410, and the election shall be called and conducted in the manner prescribed by this title for school elections. If a majority of those electors voting at the election approve the proposed transfer from the bus depreciation reserve fund, the transfer shall be approved and the trustees shall immediately order the county treasurer to make the approved transfer.

Transfer of funds.

Elector qualifications.

Election conduct.

Approval.

Order to county treasurer.

Section 302. Section 75-7101. **Applicable laws for**

HeinOnline -- 1971 vol. I 253 1971

Application of laws. **school district bonding.** The school district bonding provisions of this title and all applicable laws of the state shall govern: (1) the issuance, refunding and sale of school district bonds; (2) the levying of taxes for payment of the principal and interest on school district bonds; and (3) the redemption of bonds. Should there be a conflict between the provisions of this title and the provisions of any other law of the state, the provisions of this title shall govern.

Conflict.

Section 303. Section 75-7102. **Definition of school district for bonding purposes.** For the purposes of indebting an elementary district or a high school district by the issuance of bonds under the provisions of this title, the term "school district" shall mean any elementary district or high school district except the following types of high schools recognized as high school districts without a bonding authority in section 75-6501: (1) High schools operated by an elementary district in a county that has not been divided into high school districts; or

"School district" defined.

Exceptions.

(2) County high schools located in a county that has not been divided into high school districts by the county high school boundary commission.

Section 304. Section 75-7103. **Trustees may issue bonds for certain purposes.** The trustees of a school district may issue and negotiate bonds on the credit of the school district for the purpose of: (1) building, altering, repairing, buying, furnishing, equipping a school, teacherage, dormitory, gymnasium, or other building for school purposes in the school district;

Trustees may issue bonds.

Purposes. Buildings.

Land acquisition. (2) purchasing the necessary lands for a school, teacherage, dormitory, gymnasium, or other building for school purposes in the school district;

Water supply. (3) securing a water supply for a school, teacherage, dormitory, gymnasium, or other building for school purposes in the school district;

School bus. (4) buying a school bus;

Redemption of bonds. (5) providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant to bonds when there is not sufficient money to redeem them;

Redemption of optional bonds. (6) providing the necessary money to redeem optional or redeemable bonds when it is for the best interest of the school district to issue refunding bonds; or

HeinOnline -- 1971 vol. I 254 1971

(7) funding a judgment against the district. Judgments.

Any money realized from the sale of any bonds issued on the credit of a high school district shall not be used for any of the above purposes in an elementary school district, and such money may be used for any of the above purposes for a junior high school but only to the extent that the ninth grade of the high school is served thereby. Limitations on use of monies.

Section 305. Section 75-7104. **Limitations on amount of bond issue.** The maximum amount for which each school district shall become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is five per cent (5%) of the assessed value of the taxable property therein as ascertained by the last completed asessment for state, county, and school taxes previous to the incurring of such indebtedness. The words "value of the taxable property therein" as used herein shall be given the same meaning and construction and are used in the same sense as in section 6 of article XIII of the state constitution. All bonds issued in excess of such amount shall be null and void. Maximum bond indebtedness. 5% of assessed value. "Value of the taxable property therein" defined.

When the total indebtedness of a school district has reached the five per cent (5%) limitation prescribed in this section, such school district shall have the power and authority to pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this title. Authority to pay on cash basis.

Whenever bonds are issued for the purpose of refunding bonds, any monies to the credit of the debt service fund for the payment of the bonds to be refunded shall be applied towards the payment of such bonds and the refunding bond issue shall be decreased accordingly. Application of monies.

Section 306. Section 75-7105. **Definition of forms of bonds.** As used in this title, unless the context clearly indicates otherwise: Definitions.

"Amortization bonds" means the form of bonds on which a part of the principal must be paid each time interest becomes payable. The part payment of principal increases at each installment in the same amount that the interest decreases. The combined interest and prin- "Amortization bonds."

HeinOnline -- 1971 vol. I 255 1971

cipal due on each due date remains the same until the bonds are paid. The final payment may vary from prior payments in the amount resulting from disregarding fractional cents in prior payments.

"Serial bonds." "Serial bonds" means the form of bonds which are payable in annual installments and on which the amount to be redeemed each year is determined by dividing the total amount of the bonds by the term of the bond issue. However, the first or the first and second installments may vary from the others to the extent resulting from fixing the amounts of each bond of the other installments at one hundred dollars ($100), at five hundred dollars ($500) or at some multiple thereof.

Limitations on bonds issued.

Section 307. Section 75-7106. **Form of bond to be issued.** All bonds issued by a school district shall be amortization bonds unless serial bonds, in the judgment of the trustees, will be more advantageous to the school district and can be sold at a comparatively reasonable rate of interest.

Term 20 years.

Term 10 years—exception.

Optional redemption.

Interest limit—6% per annum.

Section 308. Section 75-7107. **Limitation of term and interest on bonds, and timing for redemption of bonds.** School district bonds shall not be issued for a term longer than twenty (20) years except that bonds issued to refund or redeem outstanding bonds shall not be issued for a term longer than ten (10) years unless the unexpired term of the bonds to be refunded or redeemed is in excess of ten (10) years in which case the refunding or redeeming bonds may be issued for such unexpired term. All bonds issued for a longer term than five (5) years shall be redeemable at the option of the school district five (5) years from the date of issue and on any interest payment due date thereafter before maturity and shall be so stated on the face of the bonds. The interest shall not exceed six per cent (6%) per annum and shall be payable semiannually.

All bonds dated in June or December.

Back dating 5 months.

Section 309. Section 75-7108. **Dates of issue and payments.** In order that the dates of payment of installments on school district bond issues may coincide as nearly as possible with the largest monthly tax collections, all school district bonds shall preferably bear a date of some day in June or December. For this reason, the bonds may be dated back not more than five (5) months

HeinOnline -- 1971 vol. I 256 1971

from the time of the actual sale but no interest shall be charged on these bonds before they have been delivered to the purchaser and payment has been made by the purchaser. Interest accrued on such bonds according to their terms at the time of delivery shall either be refunded by the purchaser or deducted from the first interest payments. The failure to date such bonds in June or December shall not affect their validity.

Interest limitations.

Validity not affected.

Section 310. Section 75-7109. **Refunding bonds may be issued without an election.** Bonds of a school district issued for the purpose of providing the money needed to redeem outstanding bonds may be issued without submitting the proposition to the electorate at an election. In order to issue bonds for such purpose, the trustees, at a regular meeting or a duly called special meeting, shall adopt a resolution setting forth: (1) the facts regarding the outstanding bonds that are to be redeemed;

Resolution to issue new bonds for redemption of outstanding bonds. Required facts.

(2) the reasons for issuing new bonds; and

(3) the term and details of the new bond issue. After the adoption of such resolution, the trustees shall give notice of the sale of such new bonds in the same manner that notice is required to be given for the sale of bonds authorized at a school election. Such new bonds shall be sold in open competitive bidding, by written bids, or by sealed bids. Bonds shall not be refunded by the issuance of new bonds unless the rate of interest offered on the new bonds is at least one-half (½) of one per cent (1%) per annum less than the rate of interest in the bonds to be refunded or redeemed.

Notice of sale.

Sale by bid.

Limitation.

Section 311. Section 75-7110. **Election required to authorize the issuance of school district bonds and the methods of introduction.** A school district shall not issue bonds for any purpose other than that provided in section 75-7109 unless the issuance of bonds has been authorized by the qualified electors of the school district at an election called for the purpose of considering a proposition to issue such bonds. A school district bond election shall be called by a resolution as prescribed under the provisions of section 75-6406 when: (1) the trustees, of their own volition, adopt a resolution to that effect; or

Bond issuance authorized by election.

Resolution.

(2) the trustees have received a petition which asks that an election be held to consider a bond proposition

Petition.

HeinOnline -- 1971 vol. I 257 1971

and which has been validated under the provisions of section 75-7114.

Section 312. Section 75-7111. **Additional requirements for trustees resolution calling bond election.** In addition to the requirements for calling an election that are prescribed in sections 75-6406 and 75-6408, the trustees' resolution calling a school district bond election shall: (1) fix the exact amount of the bonds proposed to be issued, which may be more or less than the amounts estimated in a petition;

Mandatory facts in resolution.

(2) fix the maximum number of years in which the proposed bonds would be paid; and

(3) in the case of initiation by a petition, state the essential facts about the petition and its presentation.

Section 313. Section 75-7112. **Form, contents and circularization of petition proposing school district board election.** Any petition for the calling of an election on the proposition of issuing school district bonds shall: (1) plainly state each purpose of the proposed bond issue and the estimated amount of the bonds that would be issued for each purpose;

Mandatory requirements of petition.

Purpose.

Amount.

20% of electors sign.

(2) be signed by not less than twenty per cent (20%) of the school district electors qualified to vote under the provisions of section 75-6411 in order to constitute a valid petition;

Single petition.

(3) be a single petition or it may be composed of more than one petition, all being identical in form, and after being circulated and signed they shall be fastened together to form a single petition when submitted to the county registrar;

Circulation.

(4) be circulated by any one or more qualified electors of the school district; and

Affidavit.

(5) contain an affidavit of each registered elector circulating a petition attached to the portion of the petition he circulated. Such affidavit shall attest to the authenticity of the signatures and that the signers knew the contents of the petition at the time of signing it.

Section 314. Section 75-7113. **Validation of petition and county registrar's certificate.** The petitioners for a

HeinOnline -- 1971 vol. I 258 1971

school district bond election shall submit their petition to the county registrar of the county where the school district is located for validation of the signatures on the petition. The county registrar shall examine the petition and shall attach or endorse thereon a certificate which shall state: (1) the total number of electors of the school district who are, at the time, qualified to vote under the provisions of section 75-6411;

Validation.

County registrar's certificate—required statements.

(2) which and how many of the persons whose names are subscribed to the petition possess the qualifications to vote on a bond proposition; and

(3) whether the number of qualified signers established in subsection (2) is more or less than twenty per cent (20%) of the total number of qualified electors established in subsection (1).

After completing the examination, the county registrar shall immediately send the petition and his certificate to the school district. The county registrar shall not receive compensation for the examination of school district bond petitions.

Distribution.

Section 315. Section 75-7114. **Trustees' consideration of validated petition proposing bond election.** When a school district receives a school district bond petition from the county registrar, a meeting of the trustees shall be called for the consideration of the petition. The trustees shall be the judges of the adequacy of the petition and their findings shall be conclusive against the school district in favor of the innocent holder of bonds issued pursuant to the election called and held by reason of the presentation of such petition. The petition shall be valid if the trustees find that it is in proper form and bears the signatures of not less than twenty per cent (20%) of the school district electors who are qualified to vote under the provisions of section 75-6411.

Trustees shall consider petition.

Findings conclusive.

Validation.

Section 316. Section 75-7115. **Preparation and form of ballots for bond election.** The school district shall cause ballots to be prepared for all bond elections, and whenever bonds for more than one purpose are to be voted upon at the same election, separate ballots shall be prepared for each purpose. All such ballots shall be substantially in the following form:

Ballots.

Form.

HeinOnline -- 1971 vol. I 259 1971

OFFICIAL BALLOT

SCHOOL DISTRICT BOND ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BONDS—YES" if you wish to vote for the bond issue; if you are opposed to the bond issue make an X or similar mark in the square before the words "BONDS—NO."

Shall the board of trustees be authorized to issue and sell bonds of this school district in the amount of ..... dollars ($.....) bearing interest at a rate not more than six per cent (6%) per annum, payable semiannually, during a period not more than ..... years, for the purpose ..... (here state the purpose the same way as in the notice of election).

☐ BONDS—YES.

☐ BONDS—NO.

Conduct of election.

Notice form.

Section 317. Section 75-7116. **Notice of bond election by separate purpose.** Any school district bond election shall be conducted in accordance with the school election provisions of this title except that the election notice required therein shall be in substantially the following form:

NOTICE OF SCHOOL DISTRICT BOND ELECTION

Notice is hereby given by the trustees of School District No. ..... of ..... County, State of Montana, that pursuant to a certain resolution duly adopted at a meeting of the board of trustees of said school district held on the ..... day of ....., A.D., 19....., an election of the registered electors of School District No. ..... of ..... County, state of Montana, who are taxpayers therein and whose names appear on the last completed assessment roll for state, county and school district taxes prior to the holding of such election, will be held on the ..... day of ....., A.D., 19....., at ..... for the purpose of voting upon the question of whether or not the trustees shall be authorized to issue and sell bonds of said school district in the amount of ..... dollars ($.....), bearing interest at a rate not more than six per cent (6%) per annum, payable semiannually, for the purpose of ..... (here state purpose) ..... The bonds to

HeinOnline -- 1971 vol. I 260 1971

be issued will be either amortization or serial bonds, and amortization bonds will be the first choice of the board of trustees. The bonds to be issued, whether amortization or serial bonds, will be payable in installments over a period not exceeding ..... (state number) years.

The polls will be open from ..... o'clock ....m. and until ..... o'clock ....m. of the said day.

Dated and posted this ..... day of ....., A.D., 19.....

.....
Chairman of School District No. ..... of .....County,
State of Montana

If the bonds proposed to be issued are for more than one purpose, then each purpose shall be separately stated in the notice together with the proposed amount of bonds therefor.

Each purpose separately stated.

Section 318. Section 75-7117. **Determination of approval or rejection of proposition at bond election.** When the trustees canvass the vote of a school district bond election under the provisions of section 75-6423, they shall determine the approval or rejection of the school bond proposition in the following manner: (1) determine the total number of electors of the school district who are qualified to vote under the provisions of section 75-6411 from the list of electors supplied by the county registrar for such bond election;

Canvass.

Trustees determine approval or rejection.

Procedure.

(2) determine the total number of qualified electors who voted at the school bond election from the tally sheet or sheets for such election;

(3) calculate the percentage of qualified electors voting at the school bond election by dividing the amount determined in subsection (2) by the amount determined in subsection (1); and

(4) when the calculated percentage in subsection (3) is forty per cent (40%) or more, the school bond proposition shall be deemed to have been approved and adopted if a majority of the votes shall have been cast in favor of such proposition, otherwise it shall be deemed to have have been rejected; or

(5) when the calculated percentage in subsection (3) is more than thirty per cent (30%) but less than forty

HeinOnline -- 1971 vol. I 261 1971

per cent (40%), the school bond proposition shall be deemed to have been approved and adopted if sixty per cent (60%) or more of the votes shall have been cast in favor of such proposition, otherwise it shall be deemed to have been rejected! or

(6) when the calculated percentage in subsection (3) is thirty per cent (30%) or less, the school bond proposition shall be deemed to have been rejected.

Trustees certificate.

If the canvass of the vote establishes the approval and adoption of the school bond proposition, the trustees shall issue a certificate proclaiming the passage of such proposition and the authorization to issue bonds of the school district for the purposes specified on the ballot for such school district bond election.

Within 60 days.

Section 319. Section 75-7118. **Trustees resolution to issue school district bonds.** Within sixty (60) days after the date of the election certificate or as soon thereafter as is practical in the judgment of the trustees, the trustees shall adopt a resolution providing for the issuance of bonds of the school district. Such resolution also shall specify: (1) the number of series or installments in which the bonds are to be issued:

Resolution.

Mandatory statements.

(2) the amount of bonds to be issued;

(3) the maximum rate of interest;

(4) the purpose or purposes of the issue;

(5) the date the issue will bear;

(6) the period of time through which the issue will be paid;

(7) the manner of execution of the bonds;

(8) that amortization bonds will be preferred but also fix the denomination of serial bonds; and

(9) the date and time that the sale of the bonds shall be conducted.

Notice of sale.

Section 320. Section 75-7119. **Notice of sale of school district bonds.** The trustees shall cause the notice of the sale of the bonds to be given. The notice shall state the purpose for which the bonds are to be issued and the amount proposed to be issued, and shall be substantially in the following form:

Form.

HeinOnline -- 1971 vol. I 262 1971

NOTICE OF SALE OF SCHOOL DISTRICT BONDS

Notice is hereby given by the trustees of School District No. ..... of ..... County, state of Montana, that the said trustees will on the ..... day of ....., 19....., at the hour of ..... o'clock ....m. at ....., in the said school district, sell to the highest and best bidder for cash, either amortization or serial bonds of the said school district in the total amount of ..... dollars ($.....), for the purpose of ....

Amortization bonds will be the first choice and serial bonds will be the second choice of the trustees.

If amortization bonds are sold and issued, the entire issue may be put into one single bond or divided into several bonds, as the trustees may determine upon at the time of sale, both principal and interest to be payable in semiannual installments during a period of ..... years from the date of issue.

If serial bonds are issued and sold they will be in the amount of ..... dollars ($.....) each, except the first bond which will be in the amount of ..... dollars ($.....), the sum of ..... dollars ($.....) of the said serial bonds will become payable on the ..... day of ....., 19....., and the sum of ..... dollars ($.....) will become payable on the same day each year thereafter until all of such bonds are paid.

The bonds, whether amortization or serial bonds, will bear date of ....., 19....., and will bear interest at a rate not exceeding six per cent (6%) per annum, payable semiannually, on the ..... day of ..... (month) ..... and ..... (month) ..... in each year, and will be redeemable in full. (Here insert optional provisions, if any, to be recited on the bonds.)

The bonds will be sold for not less than their par value with accrued interest, and all bidders must state the lowest rate of interest at which they will purchase the bonds at par. Such bonds shall be sold in open competition bidding, by written bids, or by sealed bids. The trustees reserve the right to reject any and all bids and to sell the said bonds at private sale.

All bids other than by or on behalf of the state board of land commissioners must be accompanied by money,

HeinOnline -- 1971 vol. I 263 1971

a certified check, cashier's check, bank money order or bank draft, drawn and issued by a national banking association located in Montana or by any banking corporation incorporated under the laws of Montana, in the sum of ..... dollars ($.....) payable to the order of the district, which will be forfeited by the successful bidder in the event that he shall refuse to purchase the bonds.

All bids should be addressed to the undersigned district.

.....

Chairman, School District No. .....
of ..... County
Address: .....

ATTEST:

Subscribed and sworn to before me
this ..... day of ....., 19.....

.....

Notary Public for the State Re
siding at ....., Montana.
My Commission expires .....

Section 321. Section 75-7120. **Publication of notice of sale of school district bonds.** The trustees shall cause a copy of the notice of sale of the bonds to be: (1) published once a week for four successive weeks preceding the date of the sale in a newspaper as determined by the trustees;

Publication.

(2) published once, not less than thirty (30) days prior to the date of sale, in some daily newspaper of the state that has a general circulation throughout the state when the bond issue to be sold is ten thousand dollars ($10,000) or more; and

In state $10,000 or more.

(3) sent to the state board of land commissioners.

Distribution.

If the bond issue to be sold is ten thousand dollars ($10,000) or more, the trustees may cause a brief notice to be published in some newspaper in the city of New York.

$10,000 or more—in city of New York.

Section 322. Section 75-7121. **Sale of school district bonds.** The trustees shall meet at the time and place fixed in the notice to consider bids on the bond issue. The bonds shall be sold at not less than par and accrued interest

Meeting to consider bids—limitation.

HeinOnline -- 1971 vol. I 264 1971

and each bidder shall specify the form of bonds to be issued, whether amortization or serial, and the rate of interest at which he will purchase the bonds. A bid for amortization bonds shall have the preference over a bid for serial bonds, all other things being equal; and in considering bids on these classes of bonds, the trustees shall take into consideration not only the rate of interest demanded on each kind, but also every other known element affecting the total cost of the bonds to the district when paid in full. The trustees shall accept the bid which they shall judge most advantageous to the school district; provided, that no bid shall be accepted which will require the bonds to bear a rate of interest exceeding six per cent (6%) per annum. No attorney fees, brokerage or other fees, or commissions of any kind shall be paid to any person or corporation for assisting in the proceedings or in the preparation of the bonds, or in negotiating the sale. The trustees are authorized to reject any or all bids and to sell the bonds at private sale if they deem it for the best interests of the school district except that such bonds shall not be sold at less than par and accrued interest.

Bidder shall specify form and rate of interest.

Bid preference.

Acceptance of bid.

Limitation—rate of interest not to exceed 6% per annum.

Trustees may reject bids.

Private sale.

Section 323. Section 75-7122. **Form and printing of school district bonds.** It shall not be necessary for the trustees to prescribe the detailed form of the bonds to be issued but the bonds must conform to all legal requirements for their payment, whether they are issued as amortization or serial bonds. The bonds and coupons shall be issued in the name of the school district and shall be executed by the chairman of the trustees and the school district clerk in accordancee with chapter 13 of title 59, R.C.M., 1947. If the bonds are purchased by the state board of land commissioners, all payments of principal or interest shall be made at the office of the state treasurer.

Form of bonds.

Issued in name of school district—execution.

Payments to state treasurer.

The trustees shall cause the bonds, with the attached coupons, to be printed at the expense of the school district at the lowest commercial rates.

Printing.

Section 324. Section 75-7123. **Registration of school district bonds by county treasurer and copy for preservation.** When the school district bonds have been duly executed by the chairman of the trustees and the school district clerk, all such bonds shall be registered by the county treasurer in his bond registration book before

Bonds registered by county treasurer.

HeinOnline -- 1971 vol. I 265 1971

such bonds are delivered to the purchaser. The bond registration shall show the number and amount of each bond, the date of issue, the redeeemable date of each bond, the name of the purchaser, and the amount and due date of all payments required on the bonds.

Preservation of copies.

The trustees shall provide the county treasurer with an unsigned and canceled printed copy of each issue of school district bonds for preservation in the office of the county treasurer.

Section 325. Section 75-7124. **Delivery of school district bonds and disposition of monies realized from sale.**

Duties of county treasurer.

After the school district bonds have been registered, the county treasurer shall: (1) when the state board of land

Delivery of bonds—payment.

commissioners has purchased such bonds, forward the bonds to such state board which, in turn, shall cause the bonds to be sent to the state treasurer and shall cause the bonds to be paid for in the manner provided by law; or

(2) when the purchaser is anybody other than the state board of land commissioners, deliver the bonds to such purchaser when full payment of the bonds has been made by the purchaser.

Penalties for failure to pay monies from sale of bonds.

If any of the trustees shall fail or refuse to pay into the proper county treasury the money arising from the sale of any bonds, he shall be deemed guilty of a felony. If convicted, he shall be punished by imprisonment in the state prison for not less than one (1) year nor more than ten (10) years.

Deposit of monies.

All monies realized from the sale of school district bonds shall be paid to the county treasurer and he shall credit such monies to the building fund of the school district issuing such bonds; except monies realized for the purposes defined in subsection (5) and (6) of section 75-7103 shall be deposited in the debt service fund for

Availability.

the purchase of such bonds. The monies realized from the sale of school district bonds shall be immediately

Expenditure for purposes authorized.

available to such school district and the trustees may expend such monies without budgeted authorization for the purpose or purposes, but only for such purposes, for which the bonds were authorized by the school district bond election. Under the provisions of subsection (2) of

Trustees may invest.

section 16-2050, R.C.M., 1947, the trustees may invest such monies for which there is no immediate demand and

HeinOnline -- 1971 vol. I 266 1971

the interest earned by such investment shall be used in the manner provided therein. After the full accomplishment of the purpose or purposes of a bond issue, the excess monies realized from such bond issue shall be transferred to the debt service fund of the school district to be used for the redemption or purchase of bonds of such issue.

Transfer of excess monies.

Section 326. Section 75-7125. **County attorney to assist in the proceedings.** The trustees of any school district conducting bond proceedings shall prepare and maintain a transcript of their bond proceedings. It is a part of the official duties of the county attorney of every county of this state to advise and assist the trustees of each school district of his county in its bond proceedings. Before any transcript of school district bond proceedings is sent to the state board of land commissioners, he shall carefully examine such transcript, and the transcript shall not be sent until he has attached his opinion to the transcript that the proceedings are in full compliance with law.

Transcript of bond proceedings.

Duty of county attorney to assist trustees.

Opinion of compliance.

Section 327. Section 75-7126. **School district liable on bonds.** The full faith, credit and taxable resources of every school district issuing bonds under the provisions of this title are hereby solemnly pledged for the repayment of such bonds with interest according to their terms. For the purpose of making the provisions of this act enforceable every school district is hereby declared to be a body corporate which may sue and be sued by or in the name of the trustees of such school district.

Pledge for repayment.

Body corporate.

Section 328. Section 75-7127. **Preparation of debt service fund budget.** The trustees of each school district having outstanding bonds shall include in the debt service fund of the preliminary budget adopted in accordance with section 75-6707 an amount of money that is necessary to pay the interest and the principal amount becoming due during the ensuing school fiscal year for each series or installment of bonds, according to the terms and conditions of such bonds and the redemption plans of the trustees. The county superintendent shall compare the preliminary budgeted amount for the debt service fund with the bond retirement and interest requirement for the school fiscal year just beginning as reported by the county treasurer in his statement supplied under the provisions of section 75-6710. If the

Trustees shall budget for repayment of bonds.

Duties of county superintendent.

HeinOnline -- 1971 vol. I 267 1971

county superintendent finds that the requirement stated by the county treasurer is more than the preliminary budget amount, the county superintendent shall increase the budgeted amount for interest or principal in the debt service fund of the preliminary budget. The amount confirmed or revised by the county superintendent shall be the final budget expenditure amount for the debt service fund of such school district.

Final budget for debt service fund.

Section 329. Section 75-7128. **Computation of net levy requirement for debt service fund and proceedings if board of county commissioners fail to make adequate levy.** The county superintendent shall compute the levy requirement for each school district's debt service fund on the basis of the following procedure: (1) Determine the total monies available in the debt service fund for the reduction of the property tax on the district by totaling:

County superintendent shall compute levy—procedure.

(a) the end-of-the-year cash balance, less any outstanding warrants in the debt service fund;

(b) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of subsection (4) of section 75-6806 or by the investment of bond proceeds under the provisions of section 75-7124; and

(c) any other monies anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income.

(2) The total amount available to reduce the property tax, determined in subsection (1), shall be subtracted from the final budget expenditure amount for the debt service fund as established in section 75-7127.

Report to county—second Monday in August.

(3) The net debt service fund levy requirement determined in subsection (2) shall be reported to the county commissioners on the second Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy shall be made by the county commissioners in accordance with section 75-6717.

Levy.

Insufficient levy.

If the board of county commissioners shall fail in any school fiscal year to make a levy for any issue or series

HeinOnline -- 1971 vol. I 268 1971

of bonds of any school district sufficient to raise the monies necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in such amounts as are established under the provisions of this section, the holder of any bond of such issue or series or any taxpayer of the district may apply to the district court of the county in which such school district is located for a writ of mandate to compel the board of county commissioners of such county to make a sufficient levy for such purposes. If, upon the hearing of such application, it shall appear to the satisfaction of the court that the board of county commissioners of such county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of such deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in such school district that is sufficient to raise the amount of such deficiency. Such levy shall be in addition to any levy required to be made at that time for the then ensuing school fiscal year. Any costs which may be allowed or awarded the petitioner in any such proceeding shall be paid by the members of the board of county commissioners, and shall not be a charge against the school district or the county.

Application for writ of mandate.

Hearing.

Court shall require sufficient levy.

Costs.

Section 330. Section 75-7129. **Payment of debt service obligations by county treasurer and termination of interest.** The county treasurer shall maintain a separate debt service fund for each school district, and shall credit all tax monies collected for debt service to such fund and use the monies credited to such fund for the payment of debt service obligations in accordance with the school financial administration provisions of this title.

Separate debt service fund for each district.

The county treasurer shall pay from the debt service fund all amounts of interest and principal on school district bonds as such interest or principal becomes due when the coupons or bonds are presented and surrendered for payment. If the bonds are held by the state of Montana, then all payments shall be remitted to the state treasurer who shall cancel the coupons or bonds and return such coupons or bonds to the county treasurer with his re-

Payments on school bonds.

Remittance procedure.

HeinOnline -- 1971 vol. I 269 1971

ceipt. If the bonds are not held by the state of Montana, and the interest or principal is made payable at some designated bank or financial institution, the county treasurer shall remit the amount due for interest or principal to such bank or financial institution for payment against the surrender of the canceled coupons or bonds.

Interest due.

Whenever any school district bond, or installment on school district bonds, shall become due and payable, interest shall cease on such date unless sufficient funds are available to pay such bond when it is presented for payment or when payment of an installment is demanded. In either case, interest on such bond or installment shall continue until payment is made.

Installments due.

6% per annum.

Any installment on interest and principal on bonds held by the state, that is not promptly paid when due, shall draw interest at an annual rate of six per cent (6%) from the date due until actual payment, irrespective of the rate of interest on the bonds.

Redemption of bonds.

Section 331. Section 75-7130. **Redemption of bonds and investment of debt service fund monies.** Whenever there is a sufficient amount of money in any school district debt service fund available to pay and redeem one or more bonds of such school district held by the state of Montana, the county treasurer shall apply such money in payment of as many of such bonds as can be paid and redeemed. The county treasurer shall give notice not less than thirty (30) days before the next interest due date to the state board of land commissioners that on such interest due date such bond or bonds will be paid. Before such interest due date, the county treasurer shall remit to the state treasurer the amount of money that is necessary to pay the bond or bonds that are being redeemed and the interest due on such bonds. When the state treasurer receives such payment, he shall cancel such bond or bonds and any unpaid coupons of such bonds, and return the canceled bonds and coupons to the county treasurer.

County treasurer shall give notice—30 days.

Remittance procedure.

Redemption of optional bonds.

Whenever there is a sufficient amount of money in any school district debt service fund available to pay and redeem one or more optional bonds of such school district not held by the state of Montana, not yet due but then redeemable, or becoming redeemable on the next interest due date, the county treasurer shall apply

HeinOnline -- 1971 vol. I 270 1971

such available money in payment of as many of such bonds as can be paid and redeemed. The county treasurer shall give notice to the holder of the bond or bonds, if known to him, or to any bank or financial institution at which the bonds are payable, at least thirty (30) days before the next interest due date, that the bond or bonds will be paid and redeemed on such date. If the bonds are payable at some bank or financial institution, the county treasurer shall remit to the bank or financial institution, before such interest due date, an amount sufficient to pay and redeem the bond or bonds. If the bond or bonds are not presented for payment and redemption on such interest due date, the accrual of interest shall cease on such interest due date.

Notice.

30 days.

Remittance procedure.

Whenever there is money available in any school district debt service fund sufficient to pay and redeem one or more outstanding bonds not yet due or redeemable and not held by the state of Montana, the trustees of such school district may direct the county treasurer to purchase such bond or bonds of the district if this can be done at not more than par and accrued interest or at such reasonable premium as the trustees may feel justified in paying but in no case exceeding six per cent (6%).

Trustees may direct purchase of bonds not due.

Whenever the trustees cannot purchase outstanding bonds of the school district at a reasonable price, the available debt service fund monies shall be invested by the trustees under the provisions of subsection (4) of section 75-6806. Such investments shall be sold in ample time before the debt service fund monies are required for the payment of the bonds of the school district.

Investment of funds.

Section 332. Section 75-7131. **Entries of payments and notification of school district.** The county treasurer shall make the necessary entries of all payments of interest and principal on his bond registration record and shall promptly notify the clerk of the school district when such payments are made. The county treasurer also shall deliver the canceled coupons and bonds to the county clerk at the end of each month. The county clerk shall file such canceled coupons and bonds in his office.

Duties of county treasurer—entries.

Canceled coupons and bonds.

Section 333. Section 75-7132. **Disposition of monies remaining in debt service fund.** When all of the bonds and bond interest of any school district have been fully paid, all money remaining in the debt service fund for

Transfer of monies.

HeinOnline -- 1971 vol. I 271 1971

such school district and all monies which may come into such debt service fund from the payment of the delinquent taxes shall be transferred by the county treasurer to the general fund of such school district.

County bonding—county high school.

Section 334. Section 75-7133. **County bonding for county high school not placed in high school district.** Sections 75-7134 through 75-7138 shall be used for the purposes of indebting a county for county high school facilities when the county high school in such county has not been placed in a high school district by the high school boundary commission of the county. The provisions of such sections shall not be available to any county high school that has been placed in a high school district or to any other high school or district.

Exception.

Issuance of bonds.

Section 335. Section 75-7134. **Purposes and petition for county high school bonds.** Any county where a county high school that has not been placed in a high school district is located may become indebted by the issuance of bonds for the purposes of: (1) purchasing or erecting a building or buildings for high school purposes;

Purposes.

Buildings.

Renovation.

(2) remodeling, enlarging, or repairing a building or buildings for high school purposes;

Equipment.

(3) purchasing equipment for high school purposes;

Facilities.

(4) purchasing, erecting, or equipping a high school dormitory or gymnasium;

Sites.

(5) purchasing a suitable site or sites for such high school building; or

Outstanding bonds.

(6) refunding or redeeming any oustanding bonds originally issued for any of the foregoing purposes.

Petition by 20% of electors.

In order to initiate any bonding proposition for the above purposes, a petition signed by not less than twenty per cent (20%) of the electors of the county who are qualified under section 75-6411 shall be presented to the trustees of the county high school. Such petition shall request the submission of a bond proposition to the qualified electors of the county, and shall specify the purpose or purposes of the proposed bond issue and the amount of bonds to be issued. Such petition shall conform with the petition requirements prescribed in section 75-7112.

Requirements.

Trustees shall request election.

If the trustees of the county high school approve a validated petition for a bond proposition, they shall request

HeinOnline -- 1971 vol. I 272 1971

the board of county commissioners of the county to submit such bond proposition to the qualified electors of the county.

Section 336. Section 75-7135. **Duty of board of county commissioners to call election and issue bonds.** Immediately upon the receipt of any bond proposition request from the trustees of the county high school, it shall be the duty of the board of county commissioners to submit such question to the qualified electors of the county in the manner otherwise provided by law for the submission of the proposition of the issuance of other county bonds. If a majority of the qualified electors of the county, voting upon the proposition so submitted, shall approve such issue, then the board of county commissioners shall issue and market the bonds authorized as in the case of other county bonds.

Duty of board to hold election.

Approval.

Section 337. Section 75-7136. **Proration of county bond proceeds between high schools of the county.** In any county where a county high school is located and such county high school is not located in a county that has been divided into high school districts and another high school is maintained by an elementary district of the county, bonds of the county may likewise be issued in accordance with the provisions of sections 75-7134 and 75-7135. The proceeds of such issue shall be divided among the county high school and the districts maintaining a high school. The question submitted to the electors of the county shall state the amount which is to be allotted to the county high school and the amount which is to be apportioned to or among such districts. In all such cases, the amount allotted to the county high school and the amount to be apportioned among the districts shall be computed upon the basis of the taxable valuation of the county that is used for county high school property taxation purposes and the taxable valuation of the districts maintaining a high school. Any such bond monies apportioned to a district shall not be expended until the purpose for the expenditure has been approved by a vote of the qualified electors at an election held in the same manner prescribed for a school district bond election.

County bonds.

Proration of proceeds.

Computation.

Limitation.

Approval by election.

Section 338. Section 75-7137. **Payment of county bonds.** All bonds authorized and issued for a county high school not located in a high school district shall be paid,

Payment—county bonds.

HeinOnline -- 1971 vol. I 273 1971

both principal and interest, in the manner provided by law for the payment of other bonds of the county.

Issued bonds. Budget prohibited.

Section 339. Section 75-7138. **Budget prohibition when county bonds issued.** In all cases where bonds of the county are issued for county high school purposes, the trustees of the county high school shall not budget for any item of expense or disbursement for the purposes for which such county bonds have been issued.

Schedule for elementary tuition. $275 per pupil.

Section 340. Section 75-7201. **Elementary tuition rates.** Whenever a pupil of an elementary district has been granted approval to attend a school outside of the district in which he resides, under the provisions of section 75-6313 or 75-6314, such district shall pay tuition to the elementary district where the pupil attends school on the basis of the following schedule: (1) two hundred seventy-five dollars ($275) per pupil when the ANB of the attended school is one hundred (100) or less;

(2) two hundred fifty dollars ($250) per pupil when the ANB of the attended school is more than one hundred (100) but less than three hundred one (301); or

$225 per pupil.

(3) two hundred twenty-five dollars ($225) per pupil when the ANB of the attended school is three hundred one (301) or more.

July 15—tuition report requirements.

Section 341. Section 75-7202. **End of term tuition report and notification of resident elementary district.** At the close of the school term of each school fiscal year and before the fifteenth (15th) day of July, the trustees of each elementary district shall report to the county superintendent: (1) the names of the pupils attending the schools of the district under an approved tuition agreement with the district of residence of each pupil;

(2) the number of days of school attended by each pupil; and

(3) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, may waive. Any waiver of tuition shall be applied equally to all pupils.

Distribution of tuition report.

When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the county superintendent of each county in which the reported pupils reside. In turn, every

HeinOnline -- 1971 vol. I 274 1971

county superintendent shall notify each elementary district of his county of the tuition amounts owed to other elementary districts of the county or outside of the county. Such amounts shall be established from the tuition rate stated in each pupil's tuition agreement and from the information reported by the district in which the pupil attended school. No tuition shall be due when a pupil attends less than forty (40) days of school in such district.

Limitation—less than 40 days attendance.

Section 342. Section 75-7203. **Budgeting, levy requirement and paying elementary tuition.** The tuition amount that has been established in section 75-201 shall be paid during the ensuing school fiscal year. The trustees of the elementary district shall include such amount in the tuition fund of the preliminary budget. If the trustees should fail to include such amount or any portion of it in the preliminary budget, the budget board shall adjust the budgeted amount in adopting the final budget to provide for the total tuition amount that is due during the ensuing school fiscal year. Such adjustment shall not be subject to the budget adjustment provisions of section 75-6714.

Payment.

Preliminary budget.

Adjustment final budget.

The county superintendent shall report the net tuition fund levy requirement for each elementary district to the county commissioners on the second Monday of August, and a levy on the district shall be made by the county commissioners in accordance with section 75-6717. Such levy requirement shall be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget, the sum of the cash balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated monies that may be realized in the tuition fund.

Tuition report—second Monday in August.

Calculation of levy.

The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification provided under the provisions of section 75-7201. Such payments shall be made whenever there is a sufficient amount of cash available in the tuition fund, but no later than the end of the school fiscal year for which the budget was adopted.

Payment by warrants.

Section 343. Section 75-7204. **Retirement fund.** The trustees of any district employing personnel who are members of the teachers retirement system or the public

Trustees shall establish retirement fund.

HeinOnline -- 1971 vol. I 275 1971

employees retirement system shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to such retirement systems. The district's contribution for each employee who is a member of the teachers retirement system shall be calculated in accordance with section 75-6207. The district's contribution for each employee who is a member of the public employees retirement system shall be calculated in accordance with section 68-603, R.C.M., 1947.

Purpose.

Calculation—employer's contributions.

The trustees of any district required to make a contribution to either retirement system shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution and such additional monies, within legal limitations, as they may wish to provide for the retirement fund cash reserve. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to such retirement systems in accordanc with the financial administration provisions of this title.

Inclusion in preliminary budget.

Payment.

When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by: (1) determining the sum of the monies available to reduce the retirement fund levy requirement by adding:

Calculation of levy requirement.

(a) any anticipated monies that may be realized in the retirement fund during the ensuing school fiscal year; and

(b) any cash available for reappropriation as determined by subtracting the amount of the end-of-the-year cash balance earmarked as the retirement fund cash reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the retirement fund. The retirement fund cash reserve shall not be more than thirty-five per cent (35%) of the final retirement fund budget for the ensuing school fiscal year and shall be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

Reserve limitation —35%.

Purpose.

(2) subtracting the total of the monies available for reduction of the levy requirement as determined in subsection (1) from the budgeted amount for expenditures in the final retirement fund budget.

HeinOnline -- 1971 vol. I 276 1971

Report to county commissioners

second Monday in August.

Levy.

The net retirement fund levy requirement for each elementary district shall be reported to the county commissioners on the second Monday of August by the county superintendent, and a levy on each elementary district shall be made by the county commissioners in accordance with section 75-6717.

Report second Monday in August.

Levy.

The county superintendent shall total the net retirement fund levy requirements of all high school districts of the county, including any prorated joint high school district levy requirements, and shall report such levy requirement to the county commissioners on the second Monday of August as the county levy requirement for high school district retirement funds. The county commissioners shall fix and set such county levy in accordance with section 75-6717.

Joint high school district proration.

The net retirement fund levy requirement for a joint high school district shall be prorated to each county in which a part of such district is located in the same proportion as the high school ANB of the joint high school district is distributed by pupil residence in each such county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in section 75-6721.

Section 344. Section 75-7205. **Purpose and authorization of a building reserve fund by an election.** The trustees of any district, with the approval of the qualified electors of the district, may establish a building reserve for the purpose of raising money for the future construction, equipping or enlarging of school buildings or other buildings needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies: (1) the purpose or purposes for which the new or addition to the building reserve will be used;

Trustees may establish building reserve.

Purposes.

Resolution requirements.

(2) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(3) the total amount of money that will be raised

HeinOnline -- 1971 vol. I 277 1971

during the duration of time specified in subsection (2); and

(4) any other requirements under section 75-6406 for the calling of an election.

Limitations.

The total amount of building reserve when added to the outstanding indebtedness of the district shall not be more than five per cent (5%) of the value of the taxable property of the district. Such limitation shall be determined in the manner provided in section 75-7104. A building reserve tax authorization shall not be for more than twenty (20) years.

5%.

20 years.

Election.

The election shall be conducted in accordance with the school election laws of this title and the electors qualified to vote in the election shall be qualified under the provisions of section 75-6411. The ballot for a building reserve proposition shall be substantially in the following form:

Ballot form.

OFFICIAL BALLOT

SCHOOL DISTRICT BUILDING RESERVE ELECTION

INSTRUCTION TO VOTERS: Make an X or similar mark in the vacant square before the words "BUILDING RESERVE—YES" if you wish to vote for the establishment of a building reserve (addition to the building reserve); if you are opposed to the establishment of a building reserve (addition to the building reserve) make an X or similar mark in the square before the words "BUILDING RESERVE—NO."

Shall the trustees be authorized to impose an additional levy each year for ..... years to establish a building reserve (add to the building reserve) of this school district to raise a total amount of ..... dollars ($.....) for the purpose(s) ..... (here state the purpose or purposes for which the building reserve will be used).

☐ BUILDING RESERVE—YES.

☐ BUILDING RESERVE—NO.

Approval by majority vote.

The building reserve proposition shall be approved if a majority of those electors voting at the election approve the establishment of or addition to such building reserve. The annual budgeting and taxation authority

HeinOnline -- 1971 vol. I 278 1971

of the trustees for a building reserve shall be computed by dividing the total amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve shall lapse when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve shall be used for such purpose or purposes before any money realized by the bond issue is used.

Computation.

Lapse on bond issue.

Use of monies.

Section 345. Section 75-7206. **Budgeting, tax levy and use of the building reserve fund.** Whenever an annual building reserve authorization to budget is available to a district, the trustees shall include such authorized amount in the building reserve fund of the preliminary budget. The county superintendent shall report such amount as the building reserve fund levy requirement to the county commissioners on the second Monday of August, and a levy on the district shall be made by the county commissioners in accordance with section 75-6717.

Inclusion—preliminary budget report second Monday in August.

Levy.

The trustees of any district maintaining a building reserve fund shall have the authority to expend monies from such fund for the purpose or purposes for which it was authorized without such specific expenditures being included in the final budget when, in their discretion, there is a sufficient amount of money to commence the authorized projects. Such expenditures shall not invalidate the district's authority to continue the annual imposition of the building reserve taxation authorized by the electors of the district.

Expenditures.

Validity.

Whenever there is money credited to the building reserve fund for which there is no immediate need, the trustees may invest such money in accordance with subsection (4) of section 75-6806. The interest earned from the investment shall be credited to the building reserve fund or the debt service fund, at the discretion of the trustees, and expended for any purpose authorized by law for such fund.

Investments.

Interest earned.

Section 346. Section 75-7207. **Adult education fund.** Whenever the trustees of any district establish an adult

HeinOnline -- 1971 vol. I 279 1971

education program under the provisions of section 75-7513, they shall establish an adult education fund under the provisions of section 75-7515. The adult education fund shall be the depository for all federal, state and district monies received by the district in support of the adult education program.

Adult education fund.

Levy.

The trustees of any district may authorize the levy of a tax of not more than one (1) mill on the district for the operation of an adult education program when the superintendent of public instruction has approved the educational program to be supported by such levy. The approval of the superintendent of public instruction shall have been acquired by the trustees before the fourth Monday of June in order to include the expenditures to be financed by the levy in the preliminary budget. The superintendent of public instruction shall promulgate rules and forms for such approval.

Approval.

Fourth Monday in June.

Rules and forms.

Whenever the trustees of any district decide to offer an adult education program during the ensuing school fiscal year, they shall budget for the cost of such program in the adult education fund of the preliminary budget. Any expenditures in support of the adult education program under the final adult education budget shall be made in accordance with the financial administration provisions of this title for a budgeted fund.

Preliminary budget.

When a tax levy for an adult education program which has been approved by the superintendent of public instruction is included as a revenue item on the final adult education budget, the county superintendent shall report such levy requirement to the county commissioners on the second Monday of August, and a levy on the district shall be made by the county commissioners in accordance with section 75-6717.

Report.

Second Monday in August.

Levy.

Section 347. Section 75-7208. **Post-secondary vocational-technical center fund.** Whenever an approved post-secondary vocational-technical center under the provisions of section 75-7707 is operated within a district, the trustees of such district shall establish a post-secondary vocational-technical center fund. All monies prescribed and received under the provisions of section 75-7709 shall be credited to the post-secondary vocational-technical center fund. The expenditure of the monies deposited in the post-secondary vocational-education center fund shall be made under

Approved post-secondary-vocational-technical center fund.

Expenditures.

HeinOnline -- 1971 vol. I 280 1971

the budget and for the programs approved by the board of education under the provisions of section 75-7708 and the financial administration provisions of this title.

The approval of the post-secondary vocational-technical center budget and subsequent revision or amendment of such budget by the board of education shall constitute the final budget approval and the inclusion of such fund in the district's preliminary budget and the final budget, approved by the budget board, shall not be required. Final budget approval.

Whenever the county tax prescribed in subsection (2) of section 75-7709 is to be used in support of the post-secondary vocational-technical center fund budget, the county commissioners are authorized to levy such tax on the county in accordance with the provisions of section 75-6717. Levy.

Section 348. Section 75-7209. **Purpose and establishment of non-operating fund.** The trustees of any district that will not operate any school during the ensuing school fiscal year shall establish a non-operating fund on the first day of such school fiscal year. In establishing the non-operating fund, the trustees shall cause the transfer of the end-of-the-year cash balance of each fund maintained by the district during the immediately preceding school fiscal year to the non-operating fund. However cash balances of the debt service fund and the miscellaneous federal programs fund, if any, shall be maintained in their individual funds. Non-operating school fund. Transfer of monies. Limitations.

The trustees of a district establishing a non-operating fund for the first year of non-operation may earmark a portion of the non-operating fund cash balance as a a non-operating fund cash reserve when they anticipate the reopening of a school in the following school fiscal year. Such cash reserve shall not be more than the general fund cash reserve designated for the immediately preceding school fiscal year. If a school is not operated in the following school fiscal year, the authority of the trustees to earmark a non-operating fund cash reserve shall terminate and the monies earmarked as a cash reserve shall be used to reduce the levy requirement of the non-operating fund. If the trustees acquire approval to reopen a school in the following school fiscal year under the provisions of section 75-6602 or 75-6603 and operate Cash reserve. Limitations. Reduction of levy.

HeinOnline -- 1971 vol. I 281 1971

Restoration of monies.

such school, the non-operating fund cash reserve shall be restored as the general fund cash reserve.

Purposes.

The purpose of the non-operating fund shall be to centralize the financing and budgeting for the limited functions of a district not operating a school. Such functions shall include: (1) elementary tuition obligations to other districts;

(2) transportation of the resident pupils;

(3) maintenance of district owned property; and

(4) any other non-operating school function of the district deemed necessary by the trustees or required by law.

Expenditures.

Any expenditure of non-operating fund monies shall be made in accordance with the financial administration provisions of this title for a budgeted fund.

Section 349. Section 75-7210. **Budgeting and net levy requirement for non-operating fund.** The trustees of any district which does not operate a school or will not operate a school during the ensuing school fiscal year shall adopt a non-operating school district budget in accordance with the school budgeting provisions of this title. Such non-operating budget shall contain the non-operating fund and, when appropriate, a debt service fund. The non-operating budget form shall be promulgated and distributed by the superintendent of public instruction under the provisions of section 75-6704.

Non-operating school district budget.

Form.

Computation of levy requirement.

After the adoption of a final budget for the non-operating fund, the county superintendent shall compute the net levy requirement for such fund by subtracting from the amount authorized by such budget the sum of: (1) The end-of-the-year cash balance of the non-operating fund or, if it is the first year of non-operation, the cash balance determined under the transfer provisions of section 75-7209;

(2) the estimated state and county transportation reimbursements; and

(3) any other monies that may become available during the ensuing school fiscal year.

Report.

The county superintendent shall report the net non-operating fund levy requirement and any net debt service

HeinOnline -- 1971 vol. I 282 1971

fund levy requirement determined under the provisions of section 75-7128 to the county commissioners on the second Monday of August, and such levies shall be made on the district by the county commissioners in accordance with section 75-6717.

Second Monday in August. Levies.

Section 350. Section 75-7211. **School food services fund.** The trustees of any district offering school food services shall establish a school food services fund under the provisions of section 75-8005. Such fund shall be a non-budgeted fund and shall be financially administered under the provisions of this title for a non-budgeted fund.

School food services fund.

Non-budgeted.

Section 351. Section 75-7212. **Miscellaneous federal programs fund.** The trustees of any district receiving federal monies other than monies under the provisions of Title I of Public Law 81-874 or federal monies designated for deposit in a specific fund of the district shall establish a miscellaneous federal programs fund for the deposit of such federal monies. Such federal monies may be a reimbursement of expenditures already realized by the district, or may be a grant of monies for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. When the federal monies are a reimbursement, the monies shall be expended at the discretion of the trustees for school purposes. When the federal monies are a grant, the monies shall be expended according to the conditions of the program approval by the superintendent of public instruction or any other approval agent. Within the miscellaneous federal programs fund, the trustees shall cause a separate accounting to be maintained for each federal grant program and for the aggregate of all federal reimbursement monies.

Miscellaneous federal programs fund.

Expenditures.

Separate accounting.

The financial administration of the miscellaneous federal programs fund shall be in accordance with the financial administration provisions of this title for a non-budgeted fund which shall be applied by individual federal grant programs or for the aggregate amount of the federal reimbursement monies rather than on the basis of the total fund.

Financial administration.

Section 352. Section 75-7213. **Building fund.** The trustees of any district shall establish or credit the building fund whenever such district: (1) issues and sells bonds under the school district bonding provisions of this

District building fund—source of monies.

HeinOnline -- 1971 vol. I 283 1971

title for purposes other than refunding bonds of the district;

(2) receives federal money for the express purpose of building, enlarging or remodeling a school building or other building of the district;

(3) sells property of the district in accordance with the law authorizing such sale;

(4) receives money as an insurance settlement for the destruction of any property or portion of property insured by the district;

(5) earns interest from the investment of building fund monies under the provisions of subsection (4) of section 75-6806 except interest earned from the investment of bond monies under the provisions of section 75-7124 shall be credited to a fund in accordance with such section; or

(6) receives any other monies for the express purpose of building, enlarging or remodeling a school building or other building of the district.

Financial administration.

The financial administration of the building fund shall be in accordance with the financial administration provisions of this title for a non-budgeted fund, and shall

Separate accounting.

provide for a separate accounting of the monies realized by each bond issue or by each construction project fi-

Expenditures.

nanced by a federal grant of monies. Any other monies to the credit of this fund shall be expended for building, enlargement, remodeling or repairing of buildings of the district at the discretion of the trustees.

Monies credited to the building fund under the provisions of subsection (1) of this section shall be expended

Authorized purposes of bond issuance.

for the express purpose or purposes authorized by the bond proposition approved at the election authorizing the issuance of such bonds. Any money realized by the sale of bonds and remaining to the credit of the building fund after the full accomplishment of the purpose for which the

Transfer of monies.

bonds were sold, shall be transferred to the debt service fund to be used for the redemption of bonds of such issue.

Monies credited to the building fund under the provisions of subsection (2) of this section shall be expended

Authorized purposes of federal grants.

for the express purpose or purposes authorized by the federal government in granting such monies.

HeinOnline -- 1971 vol. I 284 1971

Section 353. Section 75-7214. **Housing and dormitory fund.** The trustees of any district that provides pupil or teacher housing in district owned buildings under a lease or rental agreement with pupils or teachers shall establish a housing and dormitory fund. All monies received from such lease or rental agreements shall be deposited with the county treasurer to the credit of the housing and dormitory fund, general fund, or the debt service fund. Whenever the end-of-the-year cash balance of the housing and dormitory fund is more than three thousand dollars ($3,000), such cash balance in excess of three thousand dollars ($3,000) shall be transferred to the general fund of the district.

Housing and dormitory fund.

Deposit of monies.

Transfer of monies in excess of $3,000.

Any expenditure of monies from the housing and dormitory fund shall be made for the maintenance and operation of the district owned buildings to which the lease or rental agreements apply or for the acquisition of additional housing or dormitory facilities. The financial administration of the housing and dormitory fund shall be in accordance with the financial administration provisions of this title for a non-budgeted fund.

Expenditures.

Financial administration.

Section 354. Section 75-7215. **Traffic education fund.** The trustees of any district offering a state reimbursed traffic education program shall establish a traffic education fund under the provisions of section 75-7907. Such fund shall be a non-budgeted fund and shall be financially administrated under the provisions of this title for a non-budgeted fund.

Traffic education fund.

Non-budgeted.

Section 355. Section 75-7216. **Interlocal cooperative agreement fund.** The trustees of any district serving as a prime agency under an interlocal cooperative agreement shall establish an interlocal cooperative fund under the provisions of section 75-7306 for the financial administration of the interlocal cooperative agreement. Such fund shall be a non-budgeted fund and shall be financially administered under the provisions of this title for a non-budgeted fund.

Interlocal cooperative fund.

Non-budgeted.

Section 356. Section 75-7301. **Public school fund.** The public school fund shall be maintained by the state treasurer as a subfund in the trust and legacy fund and the principal amount of such fund shall be irreducible and permanent. The following monies shall be credited to such fund as an addition to the irreducible and perma-

Public school fund maintained as subfund in trust and legacy fund.

Credit of monies.

HeinOnline -- 1971 vol. I 285 1971

nent principal amount: (1) appropriations and donations by the state;

(2) donations and bequests by individuals to the state or schools;

(3) the proceeds of land and other property which revert to the state by escheat and forfeiture;

(4) the proceeds of all property granted to the state, when the purpose of the grant is not specified or is uncertain;

(5) funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law;

(6) the proceeds of the sale of timber, stone, materials, or other property from school lands other than those granted for specific purposes, and all monies other than rental recovered from persons trespassing on such lands;

(7) the principal of all monies arising from the sale of lands and other property which have been and may be hereafter granted to the state for the support of common schools;

(8) the amount earmarked for deposit in this fund under the provisions of section 75-6907; and

(9) such other monies as may be provided by the legislature.

Validation of title.

Section 357. Section 75-7302. **Title to farm mortgage lands vested in state and transfers validated.** The transfer of farm mortgage lands made by chapter 250, Laws of 1953, shall be deemed to have vested title in such lands in the state of Montana in trust for the state public school fund.

In trust.

Conveyances sufficient in law.

All contracts, certificates of purchase, deeds, and conveyances executed by the state of Montana in the administration of such lands since the effective date of chapter 250, Laws of 1953, shall be deemed sufficient in law to dispose of the right, title, and interest therein described by the state of Montana.

Authority to acquire federal grant monies.

Section 358. Section 75-7303. **Acceptance and expenditure of federal monies for state.** The governor and the superintendent of public instruction are hereby au-

HeinOnline -- 1971 vol. I 286 1971

thorized on behalf of the state of Montana to request and accept such monies as are now or will be made available under any act of congress of the United States, or otherwise, for purposes of public school building construction or for any other purposes of public schools and public education as permitted under the laws of the state of Montana and as authorized by the grants from the federal government. Such monies shall be deposited by the governor and superintendent of public instruction with the state treasurer, and are hereby appropriated and made available to the superintendent of public instruction. All such monies shall be expended for the purpose of public school building construction or for any other purposes of public schools and public education as permitted under the laws of the state of Montana and as authorized by the grants from the federal government. Such expenditures shall be made under the supervision and in the discretion of the superintendent of public instruction. Any balance in the account in which such monies are maintained shall not lapse at any time, but shall be continuously available to the superintendent of public instruction for expenditures consistent with this act and acts of the federal government.

Deposit with state treasurer.

Expenditures.

Supervision.

Account continuous.

Section 359. Section 75-7304. **Financial administration of interlocal cooperative agreement.** Any district contracting with other districts or other public agencies to establish an interlocal cooperative agreement under the provisions of chapter 49, Title 16, R.C.M., 1947, shall be subject to the provisions of sections 75-7305, 75-7306 and 75-7307 for the purposes of the financial administration of such agreement.

Financial administration.

Interlocal cooperative agreements.

Section 360. Section 75-7305. **Definitions of prime and cooperating agencies.** For the purposes of an interlocal cooperative agreement the prime agency shall be the district or other public agency vested with the financial administration of the interlocal cooperative agreement under the terms of such agreement and the cooperating agency shall be any district or public agency other than the prime agency who is a party to the contract creating the interlocal cooperative agreement.

Definitions.

Prime agency.

Cooperative agency.

Section 361. Section 75-7306. **District as prime agency.** When the prime agency is a district, it is authorized and required to establish a non-budgeted interlocal cooperative fund for the purpose of the financial adminis-

District as prime agency may establish fund.

HeinOnline -- 1971 vol. I 287 1971

Deposit of revenues.

tration of the interlocal cooperative agreement. All revenues received, including federal, state, or other types of grant payments in direct support of the agreement and the financial support provided by cooperating agencies, shall be deposited in such fund. All financial support of the agreement contributed by a district, designated as the prime agency, may be transferred to the interlocal cooperative fund from any fund maintained by such district by resolution of the trustees. Any such transfer to the interlocal cooperative fund shall be used to finance those expenditures under the agreement which are comparable to those that are permitted by law to be made out of the fund from which the transfer was made, and which are within the final budget for the fund from which the transfer was made. No transfer shall be made from the miscellaneous federal programs fund without the express approval of the superintendent of public instruction. All expenditures in support of the interlocal cooperative agreement shall be made from the interlocal cooperative fund established by the district which is the prime agency, except that expenditures in support of such agreement may be made from the miscellaneous federal programs fund when the express approval of the superintendent of public instruction is given.

Transfer of funds.

Expenditures.

Limitations.

Section 362. Section 75-7307. **District as cooperating agency.** When a district is the cooperating agency, it shall transfer its financial support under the interlocal cooperative contract to the prime agency by district warrant. The financial support may be provided from any fund maintained by the district. Any such fund utilized for the financial support of an interlocal cooperative agreement shall finance only those expenditures of such agreement that are comparable to those permitted under the statutory provisions creating such fund and such financial support must be within the currently adopted budget for such fund. No financial support shall be financed from the miscellaneous federal programs fund without the express approval of the superintendent of public instruction.

District as cooperating agency—transfer of financial support to prime agency.

Limitations on expenditures.

Approval required.

Section 363. Section 75-7308. **Joint interstate school agreements.** The trustees of any district adjacent to another state may enter into a contract with a school district in such adjoining state to provide for the joint erection, operation and maintenance of school facilities

Joint interstate school agreements authorized.

HeinOnline -- 1971 vol. I 288 1971

for both districts upon such terms and conditions as may be mutually agreed to by such districts and as are in accord with this section. Any such contract proposed for adoption by the trustees shall be in the form and contain only terms that may be prescribed by the superintendent of public instruction, and any such contract shall be approved by the superintendent of public instruction before it is considered by the electors of the district.

Contract forms.

Approval required.

Before any contract negotiated under the provisions of this section shall be executed, the trustees shall call an election under the provisions of section 75-6406 and submit to the qualified electors of the district the proposition that such contract be approved and that the trustees execute such contract. No agreement shall be valid until it has been approved at an election. The electors at the election shall be qualified to vote under the provisions of section 75-6410 and the election shall be conducted under the school election provisions of this title. The ballot for the election shall be substantially in the following form:

Election.

Elector qualifications.

Conduct.

Ballot form.

PROPOSITION

SCHOOL DISTRICT NO. ....., ...COUNTY

Shall the trustees of this district be authorized and directed to execute the proposed contract with school district number ..... of .....county, state of ....., for the purpose of (insert the purpose of such contract)?

☐ FOR EXECUTION OF CONTRACT

☐ AGAINST EXECUTION OF CONTRACT

The trustees of any district executing a contract under this section shall have the power and authority to levy taxes and issue bonds for the purpose of erecting and maintaining the facilities authorized by this section. Furthermore, the facilities erected or maintained under this section may be located in either Montana or the adjoining state.

Trustees authority to levy taxes and issue bonds.

Location of facilities.

Section 364. Section 75-7309. **Gifts, legacies, devices and administration of endowment fund.** The trustees of any district shall have the authority and the power to accept gifts, legacies and devises, subject to the condi-

Trustees authority to accept gifts.

HeinOnline -- 1971 vol. I 289 1971

tions imposed by the deed of the donor, the will of the testator or without any conditions imposed. Unless otherwise specified by the donor, devisor or testator, when a district receives a gift, legacy or devise, the trustees shall deposit such gift, legacy, devise, or the proceeds therefrom in an endowment fund. The trustees shall administer the endowment fund so as to preserve the principal from loss and only the income from such fund shall be appropriated for any purpose.

Deposit in endowment fund.

Limitation on uses.

Investments.

The money deposited in the endowment fund shall be invested by the trustees under the provisions of subsection (4) of section 75-6806 unless the conditions of the endowment instrument require an immediate disbursement of such money. No portion of the endowment fund shall be loaned to the district nor shall any money of such fund be invested in warrants of the district.

Loans prohibited.

Transfer of monies.

Whenever any district has been abandoned, the endowment fund of such abandoned district shall be transferred and placed in the endowment fund in the district to which the territory is attached.

County treasurer is custodian.

July 1.

Accounting.

As the custodian of the endowment fund, the county treasurer shall be liable on his official bond for the endowment fund of any district of the county. No later than the first day of July of each school fiscal year, the county treasurer shall account to the trustees of each district on the condition of its endowment fund including the status of the investments that have been made with the money of the fund. The county treasurer shall also include the endowment fund in his reports to the board of county commissioners.

Memorials.

The trustees of any district having an endowment fund shall provide suitable memorials for all persons or associations of persons making gifts to the district which become a part of the endowment fund.

Definitions.

Section 365. Section 75-7401. **Definition of pupil instruction.** As used in this title, unless the context clearly indicates otherwise:

"Pupil instruction."

"Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.

School fiscal year.

Section 366. Section 75-7402. **School fiscal year.** The school fiscal year shall begin on the first day of July

HeinOnline -- 1971 vol. I 290 1971

and end on the last day of June. At least one hundred eighty (180) school days of pupil instruction shall be conducted during each school fiscal year. Any district that fails to provide for at least one hundred eighty (180) school days of pupil instruction shall not be entitled to receive any apportionment of the state interest and income funds. Any such forfeited monies shall be apportioned by the county superintendent to the other elementary districts of his county.

180 days.

Forfeiture of monies.

Section 367. Section 75-7403. **School day.** A school day of pupil instruction shall be at least two (2) hours for kindergartens and all other preschool programs, at least four (4) hours for grades one (1) through three (3), and at least six (6) hours for grades four (4) through twelve (12). The number of hours in a school day may be reduced, in an emergency, with the approval of the board of education.

School day defined.

Emergency.

Section 368. Section 75-7404. **Conduct of school on Saturday or Sunday prohibited and exception.** Except as provided, pupil instruction shall not be conducted on Saturday or Sunday. In emergencies pupil instruction may be conducted on a Saturday when it is approved by the superintendent of public instruction in accordance with the policies adopted by the board of education.

Instruction on Saturday or Sunday prohibited.

Exception.

Section 369. Section 75-7405. **Pupil-instruction-related day.** A pupil-instruction-related day shall be a day of teacher activities devoted to improving the quality of instruction. Such activities may include, but are not limited to, in-service training, attending state meetings of teacher organizations, and conducting parent conferences. A maximum of seven pupil-instruction-related days may be conducted during a school year; provided that such days are approved by the superintendent of public instruction in accordance with the policy adopted by the board of education. Such days shall not be included as a part of the required minimum of one hundred eighty (180) days of pupil instruction.

Pupil-instruction-related-day defined.

Activities.

Maximum 7 days.

Approval.

Not part of required 180 days.

Section 370. Section 75-7406. **School holidays.** Pupil instruction and pupil instruction related days shall not be conducted on the following holidays: (1) New Year's day (January 1),

School holidays defined.

(2) Memorial day (last Monday in May),

HeinOnline -- 1971 vol. I 291 1971

(3) Independence day (July 4),

(4) Labor day (first Monday in September),

(5) Veterans' day (fourth Monday in October),

(6) Thanksgiving day (fourth Thursday in November),

(7) Christmas day (December 25),

(8) State and national election days when the school building is used as a polling place and the conduct of school would interfere with the election process at the polling place.

When these holidays fall on Saturday or Sunday, the preceding Friday or the succeeding Monday shall not be a school holiday.

Required commemorative days.

Section 371. Section 75-7407. **Commemorative exercises on certain days.** All districts shall conduct appropriate exercises during the school day on the following commemorative days: (1) Lincoln's birthday (February 12),

(2) Washington's birthday (February 22),

(3) Arbor day (last Friday in April),

(4) Flag day (June 14),

(5) Citizenship day (September 17),

(6) Columbus day (October 12),

(7) Pioneer day (November 1),

(8) Other days designated by the legislature or governor as legal holidays.

When these commemorative days fall on Saturday or Sunday, exercises may be conducted the preceding Friday.

Board shall adopt standards of accreditation.

Section 372. Section 75-7501. **Standards of accreditation.** Standards of accreditation for all schools shall be adopted by the board of education upon the recommendations of the superintendent of public instruction.

Section 373. Section 75-7502. **Accreditation of schools.** Every school year the conditions under which

HeinOnline -- 1971 vol. I 292 1971

each elementary school, junior high school, and high school operates shall be reviewed by the superintendent of public instruction to determine each school's compliance with the standards of accreditation. The accreditation status of every school shall then be established by the board of education upon the recommendation of the superintendent of public instruction, and notification of such status for the applicable school year shall be given to each district.

Annual review.

Status.

Notice.

Section 374. Section 75-7503. **Instruction in elementary schools.** All elementary schools shall be taught in the English language. Instruction shall be given in reading, penmanship, mathematics, language arts, social sciences, science, health, physical education, music and art. Instruction may be given in additional subjects when approved by the trustees.

Required instruction in elementary schools.

Section 375. Section 75-7504. **Instruction in junior high schools and high schools.** All junior high schools and high schools shall be taught in the English language. Instruction shall be given in accordance with the requirements of the standards of accreditation adopted by the board of education. Such standards shall require instruction in English, American history, American government, mathematics, science, health and physical education. Instruction may be given in additional subjects when approved by the trustees.

Required instruction in high schools.

Section 376. Section 75-7505. **Maintenance of curriculum guide file and publishing curriculum guides by superintendent of public instruction.** The superintendent of public instruction shall collect and maintain a file of curriculum guides to be made available to districts for the use of schools in planning courses of instruction. He may prepare, publish, and distribute curriculum guides for the use of schools in planning courses of instruction. He may solicit the assistance of educators and other qualified persons in the preparation of curriculum guides.

Duties of state superintendent.

Curriculum guides.

Section 377. Section 75-7506. **Instructional assistance by superintendent of public instruction.** The superintendent of public instruction shall, at the request of the district or county superintendent, assist the schools with the planning, implementation, operation, and evaluation of instruction through in-service training and individual consultation.

Assistance in planning.

HeinOnline -- 1971 vol. I 293 1971

Trustees may establish kindergartens.

Section 378. Section 75-7507. **Kindergarten and preschool programs.** The trustees of an elementary school district may establish and operate a free kindergarten or other preschool programs for children between the ages of three (3) and six (6) years. When such kindergarten and preschool programs are established, they shall be an integral part of the elementary school and shall be governed accordingly. Financing of kindergarten and preschool programs shall not be supported by monies available from state equalization aid.

Limitation on funds.

Credits—private music instruction.

Section 379. Section 75-7508. **Private music instruction.** Schools may grant credit to pupils completing courses of private music instruction, conducted outside of school hours and at the pupils' own expense. The instruction shall be provided by a teacher holding a valid Montana teacher's certificate with a music endorsement. The district granting such credit shall provide adequate supervision for the instruction and shall determine the allowable credit for such courses.

Conservation instruction required in all schools.

Section 380. Section 75-7509. **Conservation education.** Instruction in conservation shall be given in all schools. The scope of the conservation education program shall be approved by the board of education upon the recommendations of the superintendent of public instruction and shall include a wide-spread understanding of conservation facts, principles, and attitudes. Such instruction shall not be a specific course but shall be integrated with the instruction in related courses.

Basic teacher instruction.

In order to complement the instruction in conservation, the separate units of the university system shall make available to all students in a teacher education program basic instruction in conservation education, and shall include instruction in conservation in their community or public service programs.

Forestry instruction.

Arbor Day.

To further promote conservation education, all districts are encouraged to instruct pupils about the benefits of preserving the forests and the best methods of planting and conserving trees, and by permitting the pupils to assist in planting trees and shrubs on school grounds and elsewhere on Arbor Day.

Trustees may provide supervised correspondence study.

Section 381. Section 75-7510. **Supervised correspondence study.** The trustees of any district may provide supervised correspondence study for a pupil when it is im-

HeinOnline -- 1971 vol. I 294 1971

possible for him to attend a school due to the isolation of his residence or his mental or physical incapacity. Supervision of the correspondence course shall be provided by the district superintendent or the county superintendent, if there is no district superintendent.

Section 382. Section 75-7511. **State visual, aural and other educational media library.** A library of visual, aural and other educational media shall be established and maintained by the superintendent of public instruction. The media shall be selected by the superintendent of public instruction, subject to the approval of the board of education, on the basis of their usefulness as teaching aids and resources for schools and other educational groups within the state, and shall be made available to such schools and groups either on a charge-free loan or on a rental fee basis.

State library of educational media.

Availability.

Section 383. Section 75-7512. **Definition of adult education.** As used in this title, unless the context clearly indicates otherwise, the term "adult education" means the instruction of persons sixteen (16) years of age or older who are not regularly enrolled, full-time pupils for the purposes of ANB computation. This definition shall not include the instruction in post-secondary vocational-technical centers.

"Adult education" defined.

Section 384. Section 75-7513. **Authorization to establish adult education program.** The trustees of any district or community college district may establish and operate an adult education program at any time of the day when facilities and personnel are available. An adult education program may provide both basic and secondary general education, vocational education, American citizenship education including courses in the English language and American history and government, or any other areas of instruction approved by the trustees.

Trustees may establish adult education program.

Areas of instruction.

Section 385. Section 75-7514. **Trustees' policies for adult education.** The trustees shall adopt such policies as are necessary for the supervision and administration of adult education when a program is established in the district.

Administrative policies.

Section 386. Section 75-7515. **Adult education fund.** A separate adult education fund shall be established when an adult education program is operated by a district or

Separate fund.

HeinOnline -- 1971 vol. I 295 1971

community college district. The financial administration of such fund shall comply with the budgeting, financing and expenditure provisions of the laws governing the schools.

Tuition. Fees.

Section 387. Section 75-7516. **Adult education tuition and fees.** The trustees of a district or community college district shall have the authority to charge tuition for instruction and to charge fees for the use of equipment and materials. The amount of such tuition and fees shall be determined on a per-course basis or on the basis of the cost of the entire adult education program. All proceeds from tuition and fees shall be deposited in the adult education fund.

Deposit of proceeds.

Library required in each school.

Section 388. Section 75-7517. **School library required.** The trustees of each district shall establish and maintain a school library in each school of the district. Each school library shall comply with at least the minimum requirements of the standards of accreditation adopted by the board of education.

Policies regulating school libraries.

Section 389. Section 75-7518. **Trustees' policies for school library.** The trustees shall adopt those policies necessary for regulating the use and operation of school libraries. These policies may provide for the use of school libraries by the residents of the district; provided that such use does not interfere with the regular school use of the library.

Book selection.

Section 390. Section 75-7519. **School library book selection.** School libary books shall be selected by the district superintendent, or a principal if there is no district superintendent, subject to the approval of the trustees. In districts not employing a superintendent or principal, the trustees shall select the school libary books on the basis of recommendations of the county superintendent.

School library reports.

Section 391. Section 75-7520. **Reporting school library information.** The trustees shall report school library information requested by the superintendent of public instruction, by the board of education, or, when there is no district superintendent or principal, by the county superintendent.

Use of sectarian material prohibited.

Section 392. Section 75-7521. **Sectarian publications prohibited and prayer permitted.** No publication of a sectarian or denominational character shall be used or

HeinOnline -- 1971 vol. I 296 1971

distributed in any school or be included in the school library. Instruction shall not be given in sectarian or denominational doctrines. However, any teacher, principal, or superintendent may open the school day with a prayer.

Prayer.

Section 393. Section 75-7601. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

Definitions.

"Textbook" means a book or manual used as a principay source of study material for a given class or group of students.

"Textbook."

"Textbook dealer" means any party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state of Montana.

"Textbook dealer."

Section 394. Section 75-7602. **Free textbook provisions.** The trustees of each district shall provide free textbooks to the public school pupils of the district. The trustees shall purchase such textbooks at the expense of the district and loan them to such pupils free of charge, subject to the textbook damage policy of the trustees. For the purpose of this section only, "textbooks" shall not include those books or manuals which are rendered unusable as a result of having pages designed to be written upon or removed during the course of the study they serve. When the parent of a pupil attending a school of the district so request, such textbooks shall be sold to them at cost.

Free textbooks provided on loan basis.

Exception.

Sale at cost.

Section 395. Section 75-7603. **Textbook selection and adoption.** Textbooks shall be selected by the district superintendent or by the school principal, if there is no district superintendent. Such selections shall be subject to the approval of the trustees. In districts not employing a district superintendent or principal, the trustees shall select and adopt the textbooks on the basis of recommendations of the county superintendent.

Textbook selection.

Section 396. Section 75-7604. **Textbooks obtained from licensed textbook dealer.** Textbooks selected and adopted by districts shall be obtained from a licensed textbook dealer. Copies of such textbooks shall be on file in the textbook library maintained by the superintendent of public instruction.

Licensed textbook dealer.
Copies.

HeinOnline -- 1971 vol. I 297 1971

Procedure for licensing.

Section 397. Section 75-7605. **Licensing textbook dealers.** Textbook dealers shall be licensed to sell textbooks by the superintendent of public instruction. To obtain a license a textbook dealer shall first file with the superintendent of public instruction his written agreement: (1) to file with the superintendent of public instruction copies of all textbooks to be offered for sale or adoption;

Dealer's written agreement.

Copies.

Guarantees.

Uniform prices.

(2) to guarantee that textbooks shall be supplied to any district at the listed, uniform sales prices in effect for schools when the textbooks are filed; except, that such prices may be reduced in accordance with this section;

(3) to guarantee that, at no time, shall any textbook sale price in Montana be a larger amount than the sale price to schools anywhere else in the United States under similar conditions of transportation and marketing; and

(4) to reduce automatically the listed, uniform sales price to schools whenever reductions of these prices are made anywhere in the United States.

Surety bond—provisions.

Textbook dealers filing the written agreement with the superintendent of public instruction shall also file a surety bond with the secretary of state. The surety bond shall run to the state of Montana and be conditioned on the faithful performance of all duties imposed upon textbook dealers for the purpose of regulating the supply of textbooks to districts. The amount of the surety bond shall be set by the superintendent of public instruction and shall be not less than two thousand dollars ($2,000) but not more than ten thousand dollars ($10,000). The bond shall be approved by the attorney general. It shall be the responsibility of the textbook dealer to maintain the surety bond on a current basis.

Not less than $2,000.
Not more than $10,000.
Approval.

When the textbook dealer has complied with the written agreement and surety bond requirements for licensing, the superintendent of public instruction shall issue a a license to the textbook dealer.

Issue of license.

Duty to file copies of all textbooks.

Section 398. Section 75-7606. **Filing textbooks with superintendent of public instruction.** Licensed textbook dealers shall file a copy of all textbooks, that are offered for sale or adoption to districts, in the textbook library maintained by the superintendent of public instruction.

HeinOnline -- 1971 vol. I 298 1971

When a copy of a textbook is filed, it shall be accompanied by a sworn statement of the listed, uniform sale price in effect for schools, F.O.B. the shipping point.

Sworn statement of price.

Special or abridged editions of any books on file with the superintendent of public instruction which are supplied outside of Montana at a lower price than the price of the edition filed with the superintendent of public instruction, shall be made available to districts in Montana. The offering for sale or adoption of such special or abridged editions shall be subject to the same textbook filing requirement as any other textbook.

Special or abriged editions.

The fee for filing textbooks with the superintendent of public instruction shall be two dollars ($2) for each textbook. Where several textbooks are filed by a licensed textbook dealer in the same subject and with the same series head for any one grade, the maximum fee shall be six dollars ($6). Such monies shall be deposited in the state treasury to the credit of the state general fund.

Fees.
$2.00.
$6.00.
Deposit.

The filing of a textbook shall expire ten (10) years after the date of its filing. Textbooks may be refiled in accordance with the filing and fee payment provisions of this section.

10 year expiration Refiling.

Section 399. Section 75-7607. **Notification and processing of complaint against a licensed textbook dealer.** It shall be the duty of any district or county superintendent to notify the superintendent of public instruction whenever it is ascertained that a licensed textbook dealer is: (1) offering to supply textbooks not filed with the superintendent of public instruction;

Duty to report violations.

(2) offering to sell textbooks at a higher price than the listed, uniform sales price filed with the superintendent of public instruction;

(3) offering to sell textbooks at a higher shipping point price than the shipping point price of the same textbooks distributed elsewhere in the United States;

(4) supplying textbooks inferior to the samples on file with the superintendent of public instruction; or

(5) in any other way, performing contrary to the laws regulating the offering of textbooks for sale or adoption to districts.

HeinOnline -- 1971 vol. I 299 1971

Notice of complaint.

Upon receipt of such notification from the district or county superintendent, the superintendent of public instruction shall notify the appropriate licensed textbook dealer of the complaint. Once the superintendent of public instruction has found that the licensed textbook dealer has violated any provision of this section and he fails to rectify his error within thirty (30) days of the notification of the finding of a violation, he shall forfeit his surety bond. The attorney general, upon written request of the superintendent of public instruction, shall proceed to collect by legal action the full amount of the surety bond. Any amount so recovered shall be paid into the state public school equalization aid account.

After 30 days bond forfeit.

Legal action.

Deposit of monies.

Penalties—unlicensed dealer.

Section 400. Section 75-7608. **Penalty for doing business without textbook dealer's license.** Any textbook dealer who shall sell, or offer for sale or adoption a textbook to any district or county superintendent without first obtaining a textbook license from the superintendent of public instruction shall be guilty of a misdemeanor. Upon conviction of such misdemeanor, he shall be fined not less than five hundred dollars ($500) or more than two thousand dollars ($2,000).

Penalties—restricting competition.

Section 401. Section 75-7609. **Penalty for restricting competition.** At any time a licensed textbook dealer enters into any understanding, agreement or combination to control textbook prices or otherwise restrict competition in the sale of textbooks, he shall forfeit his surety bond and textbook dealer's license. The attorney general shall institute and prosecute legal proceedings for the forfeiture of the surety bond of such licensed textbook dealer and for revocation of his textbook dealer's license.

Bond forfeit.

Legal action.

Other penalties.

Section 402. Section 75-7610. **Penalty for offer or acceptance of emoluments or other inducements.** No textbook dealer nor his agent shall offer any emolument or other inducement to any trustee or school employee to influence the selection, adoption or purchase of textbooks.

No trustee, county superintendent or school employee shall accept any emolument or other inducement from a textbook dealer or agent of such dealer for the use of his influence in the selection, adoption or purchase of textbooks.

The violation of any provisions of this section shall

HeinOnline -- 1971 vol. I 300 1971

constitute a misdemeanor. In addition, any trustee, county superintendent or school employee convicted of such misdemeanor shall be removed from his position.

Exception—sample textbooks.

Nothing in this section shall be construed to prevent the supplying of a necessary number of sample textbooks for the purpose of examination by school officials or school employees.

May 1.

Section 403. Section 75-7611. **Listing of textbooks on file with the superintendent of public instruction.** By May first of each year, the superintendent of public instruction shall supply a list of the textbooks then on file in his office to all districts and county superintendents. The list shall show the textbook title and its listed, uniform sales price. Textbooks may be excluded from the list: (1) at the written request of the licensed textbook dealer;

List of textbooks on file. Exclusions.

(2) after the textbook has been listed on ten annual listings; or

(3) when the licensed textbook dealer's surety bond is no longer in effect.

Definitions.

Section 404. Section 75-7701. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

"Vocational education."

"Vocational education" means the instruction to prepare or improve the pupil for gainful employment that does not require a baccalaureate or higher degree. This definition of vocational education shall include guidance and prevocational, related or technical instruction necessary to prepare the pupil for further vocational education or for entry into employment.

"Post-secondary vocational-technical education."

"Post-secondary vocational-technical education" means vocational-technical education of post-secondary vocational-technical pupils which is conducted by a post-secondary vocational-technical center or other programs as designated by the board of education. Post-secondary vocational-technical education shall include the 13th and 14th year and beyond but will not include work toward a baccalaureate degree.

"Post-secondary vocational-technical pupil."

"Post-secondary vocational-technical pupil" means a person who has completed or left school, is at least sixteen (16) years of age, and is available for study in prep-

HeinOnline -- 1971 vol. I 301 1971

aration for entering the labor market, for re-entering the labor market, or for employment stability or advancement in employment.

"Post-secondary vocational-technical center."

"Post-secondary vocational-technical center" means a school used principally for the provision of post-secondary vocational-technical education to persons who qualify as post-secondary vocational-technical pupils. These centers are designated by the board of education upon direction by the legislature. All other public or private schools are hereby prohibited from using this title.

Use of title prohibited.

Governing board for vocational education.

Section 405. Section 75-7702. **Duties of board of education.** The board of education shall be the governing board of the state of Montana for vocational education. The board of education shall adopt policies to effect the orderly development of a system of vocational education that is adaptable to changing needs, controlled to prevent unnecessary duplication, coordinated with federal guidelines and requirements for vocational education, and funded to insure growth and quality programming. In order to accomplish the orderly development of a system of vocational education, the board of education policies shall include: (1) a state plan for such development;

Orderly development.

Required policies.

(2) standards for vocational education courses and programs;

(3) instructor qualifications for vocational education courses and programs;

(4) criteria for approval of vocational education courses and programs which are to receive financial assistance;

(5) a basis for apportionment of all monies appropriated by the legislature for vocational education in accordance with the intent of the legislature as reflected in the terms of the appropriation;

(6) a basis for apportionment of all monies received by the state of Montana for vocational education from the federal government in accordance with the acts of Congress;

(7) a system of evaluation of vocational education which allows for consideration of the current and projected manpower needs and job opportunities; and

HeinOnline -- 1971 vol. I 302 1971

(8) any other policy not inconsistent with public law and which is necessary for the proper operation of a system of vocational education.

Section 406. Section 75-7703. **Duties of superintendent of public instruction as executive officer.** The superintendent of public instruction shall be the executive officer of the board of education for the administration of all state and federal laws related to vocational education. As the executive officer, the superintendent of public instruction shall: (1) administer the vocational education policies adopted by the board of education;

Executive officer of board.

Duties.

(2) prepare curriculum guides for board of education adoption;

(3) employ, with the confirmation of the board of education, the professional staff necessary for the state supervision and administration of vocational education;

(4) report the status of vocational education in the state of Montana when requested by the board of education;

(5) keep all vocational educational records in his office; and

(6) provide vocational education supervisory and consultative assistance to districts.

Section 407. Section 75-7704. **District authorization to establish and maintain vocational education courses and programs.** The trustees of any district, community college district, or unit of the Montana university system may establish and maintain a vocational education course or program that complies with the vocational education standards adopted by the board of education. In order for a course or program to be eligible for state or federal financing, it shall be approved by the board of education.

Trustees may establish vocational education.

Approval by board.

Section 408. Section 75-7705. **Acceptance of acts of congress for vocational education.** The state of Montana hereby reaffirms the acceptance of and assents to the terms and provisions of the act of Congress entitled "The Vocational Education Act of 1963" and the "Vocational Education Amendments of 1968," and further hereby accepts and assents to the terms and provisions of all acts of the Congress amendatory of "The Vocational Education Act of 1963," and to the terms and provisions of all other

State acceptance of federal acts.

HeinOnline -- 1971 vol. I 303 1971

acts of Congress which provide funds for the benefit of vocational education in Montana.

Custodian of federal and state monies.

Section 409. Section 75-7706. **State treasurer custodian of vocational education monies.** The treasurer of the state of Montana is hereby designated as the custodian of all federal and state monies designated, appropriated or apportioned for vocational education. All monies received from any federal or state source for the establishment, operation or furtherance of vocational education in the state shall be deposited with the state treasurer. At the direction of the board of education, he shall disburse all monies appropriated or received for vocational education.

Deposit.

Disbursement.

Board shall designate centers.

Application procedure.

Section 410. Section 75-7707. **Post-secondary vocational-technical center designation.** Post-secondary vocational-technical centers shall be designated by the board of education only upon direction of the legislature. Applications for designation must be made in accordance with the following procedure: (1) The trustees of any high school district, of a county high school, of a community college district, or the governing board of any unit of the Montana university system may submit an application for designation of a post-secondary vocational-technical center to be operated by such trustees or governing board. The application for designation shall be submitted in accordance with the time, data and form requirements prescribed by the board of education. Applicant high school districts, county high schools, or community college districts shall be located in a county with a taxable valuation of at least forty-five million dollars ($45,000,000).

Limited to county with taxable valuation of at least $45,000,000.

(2) Applications are to be presented to the superintendent of public instruction acting in his capacity as the executive officer for vocational education of the board of education. The superintendent of public instruction shall review the application and present it to the board of education along with his recommendations. The board of education shall then examine the application and recommendations of the superintendent of public instruction and either adopt the recommendations of the superintendent of public instruction or draft its own recommendations. The application, together with all recommendations shall be presented by the board of education to the next following legislative assembly.

Review and presentation to board.

Board action.

Presentation to legislative assembly.

HeinOnline -- 1971 vol. I 304 1971

Recognition of present centers.

The board of education shall recognize the presently designated post-secondary vocational-technical centers operated by the respective board of trustees of school district number 1 of Silver Bow county, high school district number 1 of Lewis and Clark county, high school district "A" of Cascade county, Missoula County High School, and high school district number 2 of Yellowstone county.

Section 411. Section 75-7708. **Program and budget categories for post-secondary vocational-technical education centers.** The board of education shall have the sole authority for the approval of the post-secondary vocational-technical education programs and their budgets. Such programs and budgets shall be placed into three categories defined as: (1) Maintenance and operation. The maintenance and operation category shall include programs and costs for instruction; vocational guidance and counseling; job placement; travel of pupils and personnel while engaged in a program; acquisition, maintenance, and repair of equipment; and the rental of necessary emergency facilities for not more than one year.

Board approval of programs and budgets.

Three categories.

Maintenance and operation.

Construction.

(2) Construction. The construction category shall include the program and cost for construction of new buildings; acquisition, expansion, remodeling and alteration of existing buildings; site acquisition and improvements; architectural fees; and the purchase of initial equipment.

Ancillary services.

(3) Ancillary services. The ancillary services category shall include the program and cost for the services and activities necessary to assure quality in the post-secondary vocational-technical center's instruction, such as supervision and administration of the center, program evaluation, special demonstration and experimental programs, and development of instructional materials and curriculum.

Trustees shall submit proposals.

The trustees of the designated district or other governing board where the post-secondary vocational-technical center is located shall submit program proposals and the related budgets on the basis of these categories and in accordance with the program and budget approval procedure prescribed by the board of education.

Section 412. Section 75-7709. **Sources of financing for post-secondary vocational-technical center budgets and board of education administration.** The total of the budgets approved by the board of education together

Total of budgets.

HeinOnline -- 1971 vol. I 305 1971

with the budget for the cost of state administration of the post-secondary vocational-technical centers shall constitute the total maximum approved, statewide budget which shall be financed as follows: (1) The primary source of financing is to be those funds specifically designated by legislative enactment or referendum by the people for financing post-secondary vocational-technical education in Montana.

Primary source.

(2) The board of county commissioners of each county in which a designated post-secondary vocational-technical center is located is hereby authorized to levy a tax of not to exceed one (1) mill on the dollar of all taxable property, real and personal, within the county for the support and maintenance of the post-secondary vocational-technical center located within the said county.

County levy.

(3) Designated post-secondary vocational-technical centers shall be eligible to receive such funds from the federal government as the board of education may provide pursuant to applicable acts of Congress.

Federal funds.

(4) If the aggregate financing provided by the above sources of revenue does not provide one hundred per cent (100%) financing of the maximum approved, statewide budget, the remaining deficiency shall be financed from any state funds appropriated by the legislature for post-secondary vocational-technical education.

Deficiencies.

Distribution of funds.

The board of education shall direct the distribution of the funds specified in subsections (1), (3), and (4) of this section on the basis of the budgets approved by the board of education. The funds earned by the mill levy specified in subsection (2) of this section shall be credited by the county treasurer to the post-secondary vocational-technical center fund.

Credit of funds.

Determination of available monies.

The board of education shall determine the amount of financing available from these four sources of revenue and may approve budgets for maintenance and operation, construction and ancillary services. The aggregate amount of the budgets so approved by the board of education for post-secondary vocational-technical centers shall not exceed the monies determined to be available.

Section 413. Section 75-7710. **Local administration.** The trustees or governing board of a post-secondary vocational-technical center shall administer such center ac-

Administration of centers.

HeinOnline -- 1971 vol. I 306 1971

cording to the requirements of the laws of the state of Montana, the policies of the board of education, and the regulations of the superintendent of public instruction. If, in construing such laws, there is a conflict between the laws providing for post-secondary vocational-technical centers and any other laws governing the operation of schools, the former shall have the conrolling authority.

Conflict of laws.

Section 414. Section 75-7711. **Exception to school calendar.** The post-secondary vocational-technical center shall not be required to conform to the 180 day school calendar so that programs shorter or longer than this calendar may be offered.

180 day school calendar not applicable.

Section 415. Section 75-7712. **Admission of pupils with priority to Montana residents.** Any person who qualifies as a post-secondary vocational-technical pupil as defined in this act shall be admitted to the post-secondary vocational-technical center of his choice except that pupils who qualify as residents of the state of Montana as hereafter defined shall be given priority in case enrollment limitations are caused by resource limitation.

Pupil qualification.

Residents have priority.

Section 416. Section 75-7713. **Waiver of tuition for Montana residents and setting nonresident tuition rates.** Tuition shall not be charged to any resident of the state of Montana by the governing board of any post-secondary vocational-technical center. However, nonresidents may be charged tuition at rates to be determined by the board of education. For the purposes of this section the eligibility of a student for resident status shall be determined in the same manner as that prescribed for use by the Montana university system, except that those provisions referring to "high school graduates" or "graduation from high school" shall be considered to refer to a person who has attended school or who was in attendance at a school.

No tuition for residents.

Nonresident tuition rates.

Determination of resident status.

Exceptions.

Section 417. Section 75-7714. **Pupil fees and disposition of collected fees.** Fees for the use of equipment and material used in instruction may be charged by the trustees or other governing board of the post-secondary vocational-technical center. The board of education shall prescribe the basis and limitations for the charging of such fees.

Fees.

Fees collected by the post-secondary vocational-technical center shall be deposited with the county treasurer

Deposit.

HeinOnline -- 1971 vol. I 307 1971

Expenditures.

in the fund designated by the superintendent of public instruction for the receipt of such fees. The expenditure of the fees shall not be subject to budget limitations and shall be in addition to the program budgets approved by the board of education.

State authorized to enter into lease agreement—maximum term of 40 years.

Section 418. Section 75-7715. **Lease or purchase of state property for post-secondary vocational-technical center purposes.** The state of Montana, acting by and through the board of education, is hereby empowered and authorized to enter into a lease agreement for a term not to exceed forty (40) years, in order to lease to a district operating a post-secondary vocational-technical center any building or lands owned by the state and financed in whole or in part by an appropriation made by the legislature of the state of Montana for the purpose of supporting the district's post-secondary vocational-technical center. The consideration necessary to support such a lease may be nominal.

Transfers of title.

The board of education is hereby authorized to transfer, or direct transfer of, title held by the state of Montana in buildings or lands financed in whole or in part by an appropriation by the state legislature, to a district operating a post-secondary vocational-technical center, at any time the board of education deems such transfer to be in the best interests of both the state and the district involved, provided that this authorization extends only to buildings or lands which are to be used by the district for post-secondary vocational-technical education purposes.

Limited purposes.

Definitions.

Section 419. Section 75-7801. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

"Special education."

"Special education" means the type of instruction requiring special facilities or programs for mentally retarded or physically handicapped children.

"Mentally retarded child."

A "mentally retarded child" means any child who is not capable of profiting from the regular instruction of a school because his mental ability is substantially below the mental ability of an average child of the same age. Mentally retarded children are classified as follows:

"Educable mentally retarded child."

(a) An "educable mentally retarded child" means a child who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that com-

HeinOnline -- 1971 vol. I 308 1971

monly expected of an eleven-year-old child, but not less than that of a seven-year-old child.

(b) A "trainable mentally retarded child" means a child who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that commonly expected of a seven-year-old child and, for entrance into a training program, is capable of walking, of clean body habits, and of obedience to simple commands. "Trainable mentally retarded child."

(c) A "custodial mentally retarded child" means a child who does not show a likelihood of attaining clean body habits, responsiveness to directions, or means of intelligible communication. "Custodial mentally retarded child."

A "physically handicapped child" means a child who is capable of profiting from the regular instruction with the assistance of special equipment, special services, or transportation to compensate for physical disabilities such as, but not limited to, cardiac impairment, cerebral palsy, chronic health problems, or inadequate speech, hearing or vision. "Physically handicapped child."

Section 420. Section 75-7802. **Conduct of special education to comply with board of education policies.** The conduct of special education programs shall comply with the policies recommended by the superintendent of public instruction and adopted by the board of education. These policies may include, but are not limited to, regulation of class size, class grouping, curriculum, methods of instruction, teacher qualifications, distances of travel to classes or programs, necessary equipment and other special services. Conduct of special education. Required policies.

Section 421. Section 75-7803. **Duties of superintendent of public instruction.** The superintendent of public instruction shall supervise and coordinate the conduct of special education in the state by: (1) recommending to the board of education for adoption of those policies necessary to establish a planned and coordinated program of special education in the state; Duties of state superintendent. Recommendations to board.

(2) administering the policies adopted by the board of education; Administration.

(3) certifying special education teachers on the basis of the special qualifications for such teachers as prescribed by the board of education; Certification of teachers.

HeinOnline -- 1971 vol. I 309 1971

Determining need. (4) discovering through observation, examination or testing the children in the state who are in need of special education;

Determining instruction. (5) determining the type of instruction required by children needing special education and preparing appropriate curriculum guides for such instruction;

Health assistance. (6) seeking appropriate medical, psychiatric, and psychological assistance from the state departmnt of health and other public agencies in diagnosing the special education needs of children, in planning programs, and in admitting and discharging children from such programs;

Recommendations to districts. (7) recommending to districts the type of special education class or program needed to serve the special education children of such districts;

Program approval. (8) approving, as they are established or proposed and annually thereafter, those special education classes or programs which comply with the laws of the state of Montana, policies of the board of education, and the regulations of the superintendent of public instruction;

Supervision. (9) providing supervision for and consulting with district superintendents, principals, teachers and trustees;

Conferences. (10) conducting conferences, offering advice and otherwise cooperating with parents and other interested persons; and

Coordinator with other agencies. (11) acting as the coordinating agency with federal agencies, other state agencies, political subdivisions of the state, and private bodies on matters concerning special education, reserving to the other agencies and political subdivisions their full responsibilities for other aspects of the care of children needing special education.

Duty of other state departments to assist. Section 422. Section 75-7804. **Cooperation of state agencies.** The state department of health, the department of institutions, and the state school for the deaf and blind shall assist the superintendent of public instruction in discovering children in need of special education; in determining the type of special education for these children, and in generally supervising and coordinating special education in the state. Nothing herein shall be construed to interfere with the purpose and function of these state agencies.

HeinOnline -- 1971 vol. I 310 1971

Section 423. Section 75-7805. **Mandatory establishment of special education class.** The trustees of any district shall establish and maintain at least one applicable special education class when there are ten (10) or more educable mentally retarded children in the district and at least one (1) applicable special education class when there are ten (10) or more physically handicapped children in the district.

Mandatory special education.

10 or more children in district.

Section 424. Section 75-7806. **Discretionary establishment of special education class or program.** The trustees of any district may establish and maintain a special education class or special education program for: (1) four (4) or more educable mentally retarded children;

Trustees may establish special education.

(2) four (4) or more physically handicapped children;

(3) four (4) or more trainable mentally retarded children;

(4) individual children requiring special education such as home or hospital tutoring, school-to-home telephone communication, or other individual programs; or

(5) educable mentally retarded children or physically handicapped children under the age of six (6) years of age when the superintendent of public instruction has determined that such programs will:

(a) assist a child to achieve levels of competence that will enable him to participate in the regular instruction of the district when he could not participate without special education;

(b) permit the conservation or early acquisition of skills which will provide the child with an equal opportunity to participate in the regular instruction of the district; or

(c) provide other demonstrated educational advantages which will materially benefit the child.

Section 425. Section 75-7807. **Petition of parents for establishment of special education class or program.** The parents of four (4) or more children needing special education of one type of educable mentally retarded children or physically handicapped children may petition the trustees to establish a special education class or program. Parents residing in several contiguous districts may pe-

Parents of four or more children may petition trustees.

HeinOnline -- 1971 vol. I 311 1971

tition the trustees of each district to cooperatively establish a special education class or program of one type for four (4) or more children. The interlocal cooperative agreement authorized in chapter 49 of title 16, R.C.M., 1947, shall be used to establish a multi-district special education class or program.

Section 426. Section 75-7808. **Providing tuition in lieu of a special education class or program.** In lieu of providing special education in the district, the trustees may arrange for the attendance of a child in need of special education in a special education class or program approved by the superintendent of public instruction and offered in another district within the state of Montana. Attendance at such a class or program shall be approved or disapproved in accordance with the laws governing the attendance of pupils in schools outside of the district.

Trustees may arrange attendance in another district.

Whenever a child resides in one elementary district but has approval to attend a special education class or program of another Montana elementary district, the district in which the child resides shall pay the tuition to the elementary district operating the class or program in the same manner as, but at twice the tuition rate, prescribed in section 75-7201 for the payment of tuition.

Payment to elementary district—twice tuition rate.

Whenever a child has approval to attend a special education class or program of a Montana high school district outside his county of residence, the county in which the child resides shall pay the tuition to the high school district operating the class or program in the same manner as, but at twice the tuition rate, prescribed in section 75-6317 for the payment of tuition.

Payment to high school district.

Twice tuition rate.

Section 427. Section 7809. **Out-of-state tuition for special education children.** The trustees of any district may arrange for the attendance of a child in need of special education in a special education class or program offered outside of the state of Montana. Attendance at such a class or program shall be approved or disapproved by the trustees and the county superintendent for elementary classes or programs, or by the county superintendent for high school classes or programs. Such approvals shall not be subject to the out-of-state attendance provisions of the laws governing the attendance of pupils in schools outside the state of Montana.

Trustees may arrange attendance out of state.

Whenever the attendance of a child at an out-of-state

HeinOnline -- 1971 vol. I 312 1971

special education class or program is approved, the officials authorized to approve such attendance may negotiate the amount and manner of payment of tuition. The budgeting provisions of sections 75-7203 and 75-6317 shall apply to these payments of out-of-state tuition.

Tuition.

Section 428. Section 75-7810. **No tuition when attending a state institution.** When a child is attending an institution supported solely by funds of the state of Montana, the resident district or county shall not be required to pay tuition for such child.

No tuition at state institutions.

Section 429. Section 75-7811. **Determination of need for special education and approval of classes and programs by superintendent of public instruction.** The determination of the children requiring special education and the type of special education needed by these children shall not be the responsibility of the trustees but shall be the responsibility of the superintendent of public instruction. Whenever the trustees of any district intend to establish a special education class or program, they shall apply for approval of the class or program, by the superintendent of public instruction. The superintendent of public instruction shall approve or disapprove the application for the special education class or program on the basis of its compliance with the laws of the state of Montana, the special education policies adopted by the board of education, and the regulations of the superintendent of public instruction. No special education class shall be operated by the trustees without the approval of the superintendent of public instruction. Each special education class or program must be approved annually.

State superintendent shall determine need.

Approve or reject applications.

Approval required.

Section 430. Section 75-7812. **Exclusion of children from special education class or program.** No mentally retarded child or physically handicapped child shall be excluded from an approved special education class or program unless: (1) the enrollment of the class is the maximum amount approved by the superintendent of public instruction; or

Exclusions prohibited.

Exceptions.

(2) the child's intellectual ability, age, or behavior pattern is not compatible with the class, as determined by the superintendent of public instruction with assistance of appropriate medical, psychiatric, or psychological advice.

HeinOnline -- 1971 vol. I 313 1971

Notice of exclusion. In the event a child is excluded under subsection (2), the trustees shall notify the local welfare department and the proper authorities of the department of institutions who shall be charged with the responsibility for providing adequate protection and care, in keeping with available facilities, so far as the parents are willing to accept such services.

Section 431. Section 75-7813. **Financial assistance for operation of special education class or program.** When a special education class or program has been approved, the following provisions shall govern the computation of the financial assistance to which the operating district is entitled: (1) In establishing the amount of the maximum-general-fund-without-a-vote, the ANB shall be:

Computation of financial assistance to districts.

ANB.

(a) forty-five (45) for a mentally retarded or physically handicapped class of seven (7) or more children;

(b) six (6) per child for a mentally retarded or physically handicapped class of not more than six (6) children but not less than four (4) children; or

(c) determined from an ANB schedule prepared by the superintendent of public instruction for all other types of special education classes and programs. The ANB schedule shall be based on the time required and the degree of special education provided and shall not allow more than six (6) ANB for each special education child.

New programs. (2) Whenever a new special education class or program is to be offered for the first time in the ensuing year and has been approved by the superintendent of public instruction prior to the adoption of the preliminary budget, an ANB based upon the estimated number of children to be enrolled in such class and determined according to the provisions in subsection (1) of this section may be used for the establishment of the foundation program and the permissive levy for the ensuing year.

Pupil enrolled for less than school year. (3) When a pupil is enrolled for less than a school year in an approved special education class or program, the district operating the class or program shall compute the ANB in the manner provided by the superintendent of public instruction.

Section 432. Section 75-7814. **Special education child eligibility for transportation.** With the approval of the superintendent of public instruction, any special educa-

Eligibility for transportation.

HeinOnline -- 1971 vol. I 314 1971

tion child shall be eligible for transportation when: (1) he is enrolled in a special education class or program operated by the district of such child's residence;

(2) he is enrolled under an approved tuition agreement in a special education class or program operated a Montana district other than the child's resident district; or

(3) he is enrolled under an approved tuition agreement in a special education class or program operated outside of the state of Montana.

Section 433. Section 75-7815. **State transportation reimbursement for special education children.** Districts providing children with transportation to a special education class or program and complying with the special education transportation regulations promulgated by the superintendent of public instruction shall be eligible for a transportation reimbursement. The reimbursement shall be calculated from a schedule established by the superintendent of public instruction with the state providing two-thirds (2/3) of the reimbursement and the county in which the children reside providing the remainder.

Districts eligible for transportation reimbursement.

Calculation.

Section 434. Section 75-7816. **Financial assistance for under six year old special education class or program.** Any district operating an approved special education class or program for children under the age of six years shall be eligible for financial assistance in accordance with section 75-7813 and for transportation reimbursement under section 75-7815.

Financial assistance —programs for children under six.

Section 435. Section 75-7901. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

Definitions.

"Traffic education" means instruction in the motor vehicle laws, in the acceptance of personal responsibility on the public highways, in the causes and consequences of traffic accidents, and in the skills necessary for the safe operation of motor vehicles.

"Traffic education."

"Traffic education course" means a course of traffic education which has been approved by the superintendent of public instruction.

"Traffic education course."

"Teacher of traffic education" means an instructor approved by the superintendent of public instruction to teach traffic education.

"Teacher of traffic education."

HeinOnline -- 1971 vol. I 315 1971

"Traffic education account." "Traffic education account" means the state treasury account in the earmarked revenue fund for the deposit and disbursement of state traffic education revenue.

Account established. Section 436. Section 75-7902. **State traffic education account and proceeds earmarked for the account.** There is hereby established a traffic education account in the treasury of the state of Montana. There shall be paid into this account a portion of the fines assessed and bails forfeited on all offenses involving a violation of a state statute or a city ordinance relating to the operation or use of motor vehicles, except offenses relating to parking of vehicles, in the following amounts: (1) where a fine is imposed, twenty per cent (20%) of the fine imposed;

Sources of funds—fines and bail forfeits.

Exception.

20% of fine imposed.

20% of total fines. (2) where multiple offenses are involved, twenty per cent (20%) of the total sum of all fines imposed;

20% of fine paid. (3) where a fine is suspended, in whole or in part, the portion paid to the traffic education account shall be twenty per cent (20%) of the fine actually paid; and

20% of forfeited bail. (4) when any deposit of bail is made for an offense to which this section applies and the bail is forfeited, twenty per cent (20%) of the forfeited bail.

5% of license fees. Five per cent (5%) of all monies received by the state of Montana from the collection of the motor vehicle driver's license fee provided for under the laws of Montana shall be contributed to the traffic education account.

Procedure for deposit of funds. Section 437. Section 75-7903. **Transmittal of proceeds from fines and other sources.** The portion of the proceeds from fines and bail forfeitures which are to be deposited in the traffic education account shall be transmitted to the city or county treasurer, as the case may be, by the court collecting them, in the manner and at the times that fines and bail forfeitures are transmitted to such treasurers under law. The court shall indicate what portion of each fine is to be credited to the traffic education account. The city and county treasurers shall transmit monthly to the state treasurer, without deduction, the portions of the fines received which are to be credited to the traffic education account.

When a court is required to transmit fees, fines, and forfeitures directly to the state treasurer, the gross proceeds including the portion of the fines to be credited

HeinOnline -- 1971 vol. I 316 1971

to the traffic education account shall be transmitted to the state treasurer and the appropriate portion shall be deposited in the traffic education account.

Section 438. Section 75-7904. **Duties of superintendent of public instruction.** The superintendent of public instruction shall: (1) develop, administer, and supervise the program of instruction in traffic education;

Duties of state superintendent—traffic education.

(2) establish basic course requirements in classroom instruction and behind-the-wheel instruction for traffic education;

(3) establish the classroom instruction and the behind-the-wheel instruction qualifications for a teacher of traffic education;

(4) approve teachers of traffic education when such teachers are qualified;

(5) establish criteria for traffic education course approval based on the basic course requirements, teacher of traffic education qualifications, and the requirements of law;

(6) approve traffic education courses when such courses meet the criteria for approval;

(7) promulgate a policy for the distribution of the traffic education monies to approved traffic education courses and annually order the distribution of the proceeds of the traffic education account in the manner required by law; and

(8) assist districts with the conduct of traffic education.

Section 439. Section 75-7905. **District establishment of traffic education program.** The trustees of any district operating a junior high school or high school may establish and maintain a traffic education course. The traffic education course shall be: (1) for students who are fifteen (15) years old or older or will have reached their fifteenth (15th) birthday within six (6) months of the course completion;

Trustees may establish course—requirements.

(2) taught by a teacher of traffic education;

(3) conducted in accordance with the basic course requirements established by the superintendent of public instruction; and

HeinOnline -- 1971 vol. I 317 1971

(4) tought during regular school hours, after regular school hours, on Saturdays, or as a summer school course, at the option of the trustees.

Section 440. Section 75-7906. **Annual allocation and distribution of traffic education account proceeds, and allocation for state administration.** The superintendent of public instruction shall annually order the distribution of all monies in the traffic education account to the districts conducting approved traffic education courses. The distribution of the traffic education monies shall be based on the distribution policy promulgated by the superintendent of public instruction; provided that the reimbursements to districts shall be based upon the number of pupils, who in a given school fiscal year, complete an approved traffic education course including both the classroom instruction and behind-the-wheel driving.

Order of distribution of monies.

Basis for distribution.

Before such fund is disbursed, there shall be deducted an amount necessary to provide for the state administration of the traffic education program by the superintendent of public instruction. Such state administration may include development, printing, and distribution of essential materials; preparation of teachers of traffic education; state supervision of the program; and any and all other activities deemed necessary by the superintendent of public instruction. The amount deducted shall not exceed twenty-four thousand dollars ($24,000) annually.

Deductions for state administration.

Maximum $24,000 annually.

Section 441. Section 75-7907. **District traffic education fund.** The trustees of any district maintaining a traffic deucation course shall establish a special nonbudgeted fund with the county treasurer for traffic education. The state traffic education reimbursement and all nontax receipts for traffic education shall be deposited in the district's traffic education fund. The expenditure of the monies deposited in the district's traffic education fund shall not be subject to the budgeting provisions of this title and may be expended for traffic education.

Special fund—nonbudgeted.

Deposit of monies.

Expenditures.

Section 442. Section 75-8001. **Definition.** As used in this title, unless the context clearly indicates otherwise, "school food services" means a service of providing food for the pupils of a district on a non-profit basis, and shall include any food service financially assisted through funds or commodities provided by the United States government.

Definitions.

"School food services."

HeinOnline -- 1971 vol. I 318 1971

Section 443. Section 75-8002. **Acceptance, expenditure and administration of federal school food services monies.** The superintendent of public instruction is authorized to accept and direct the disbursement of funds appropriated by act of Congress and apportioned to the state for use in financing school food services. This authorization shall apply to federal funds available for school food services under the National School Lunch Act (Public Law 396, 79th Congress, chapter 281, 2nd Session), Child Nutrition Act of 1966 (Public Law 642, 89th Congress), any amendments to these public laws, and any other public laws enacted to provide assistance for school food services.

Authority to accept and disburse funds.

The superintendent of public instruction shall deposit all federal funds for school food services with the state treasurer who shall credit such funds to the federal and private grant clearance fund. Any disbursement of the federal school food services funds shall be directed by the superintendent of public instruction.

Deposit with state treasurer.

The superintendent of public instruction may: (1) enter into agreements and cooperate with any federal agency, district, or other agency or person, prescribe such regulations, employ such personnel, and take such other action as he may deem necessary to:

Powers of state superintendent.

(a) provide for the establishment, operation, and expansion of school food services; and

(b) disburse federal and state funds according to the requirements of federal and state law;

(2) give technical advice and assistance to any district establishing or operating school food services and assist in the training of personnel for such services;

(3) accept any gift for use in providing school food services;

(4) conduct studies of methods of improving and expanding school food services and appraise the nutritive benefits of school food services.

The superintendent of public instruction shall report annually to the board of education on the financial, administrative, and operational phases of school food services.

Annual report to board.

HeinOnline -- 1971 vol. I 319 1971

Regulations.

Financial records.

Section 444. Section 75-8003. **Records, reports, reviews and audits.** The superintendent of public instruction shall prescribe regulations for keeping the financial and commodity records and making reports on school food services operated by a district. The financial records shall always be available for inspection and audit by federal and state officials authorized by law or contract to perform audits and shall be preserved for such period of time, not to exceed five (5) years, as the superintendent of public instruction may prescribe.

Audits, inspections and reviews.

The superintendent of public instruction shall conduct or cause to be conducted the audits, inspections, and administrative reviews of the financial records and the operation of school food services.

Authority to accept and distribute food commodities.

Costs.

Reimbursement.

Section 445. Section 75-8004. **School food commodities.** The superintendent of public instruction is authorized to accept food commodities from the federal government and to distribute the food commodities to any district or non-public school that contracts for such distribution. The superintendent of public instruction may use for the shipping, handling, and other related costs of distributing the food commodities, any funds advanced by legislative appropriation for the commodity revolving account. Such distribution costs shall be reimbursed by the participating districts and non-public schools. Those reimbursements shall be returned to the fund from which payments for the distribution costs were made.

Powers of trustees.

Section 446. Section 75-8005. **Duties of trustees.** The trustees of any district offering school food services may: (1) enter into contracts with the superintendent of public instruction for the purpose of obtaining funds, supplies and equipment, food commodities, and facilities necessary for the establishment, operation, and maintenance of the school food services;

(2) sell food to the pupils and adults participating in the school food services in accordance with the policies of the superintendent of public instruction;

(3) accept any gift for use of the school food services;

(4) allocate federal funds received in lieu of property taxation to the school food services fund in accordance with the provisions of section 75-8006; and

HeinOnline -- 1971 vol. I 320 1971

(5) adopt such policies for the operation of school food services as are consistent with the regulations of the superintendent of public instruction and with the laws of Montana.

When the trustees of any district offer school food services, they shall establish a school food services fund for the deposit of proceeds from the sale of food, gifts and other monies specified in this section and for the expenditure of such monies in support of the school food services.

School food services fund.

Section 447. Section 75-8006. **Allocation of federal funds to school food services fund for federally connected indigent pupils.** The trustees of any school district receiving federal reimbursement in lieu of taxes may request the allocation of a portion of such federal funds to the school food services fund to provide free meals for federally-connected, indigent pupils when the pupils are declared eligible. In granting the request, the county superintendent shall comply with the following procedures: (1) The indigency must be certified by the county department of welfare, assisted by a committee of three (3) composed of the county superintendent, a representative of the county health department, and an authorized representative of the district;

Application for federal funds—indigent pupils.

Procedures.

(2) A certified, detailed claim for the amount of the federal reimbursement in lieu of taxes that is to be allocated to the school food services fund shall be filed by the district with the county superintendent. The county superintendent shall confirm or adjust the amount of the claim by:

(a) determining that the pupils included on the claim have been declared indigent under subsection (1);

(b) determining the number of meals provided the indigent pupils by the school food services;

(c) determining the price per meal charged the non-indigent pupil; and

(d) multiplying the number of meals provided to indigent pupils by the price per meal.

(3) After the county superintendent's confirmation or adjustment of the claim, he shall notify the district and the county treasurer of the approved amounts for allo-

HeinOnline -- 1971 vol. I 321 1971

Deposit.

cation to the school food services fund. The district shall deposit the approved amount in the school food services fund on receipt of the succeeding federal payment in lieu of taxes.

Definition.

"Community college district."

Section 448. Section 75-8101. **Definition.** As used in this title, unless the context clearly indicates otherwise, the term "community college district" means a body corporate and a subdivision of the state of Montana organized under a single board of trustees for the purpose of providing community college instruction to high school graduates and other persons who have terminated their formal high school education. Community college districts shall be in addition to any other districts existing in any portion of the area encompassed by the community college district.

Name.

Corporate powers.

Section 449. Section 75-8102. **Community college districts name and corporate powers.** A community college district shall be known as "Community College District of ....., Montana." In this name the community college district may sue and be sued, levy and collect taxes within the limitations of the laws of Montana, and possess the same corporate powers as districts in this state, except as otherwise provided by law.

Board supervision—duties.

Role.

Survey form.

Supervision.

Uniform policies.

Uniform requirements.

Continuing study.

Section 450. Section 75-8103. **Supervision by board of education.** Community college districts shall be under the supervision of the board of education. The board of education shall: (1) Establish the role of the two-year college in the state;

(2) Set up a survey form to be used for local surveys of need and potential for two-year colleges and provide supervision in the conducting of surveys;

(3) Supervise the community college districts;

(4) Formulate and put into effect uniform policies as to budgeting, record keeping, and student accounting;

(5) Establish uniform minimum entrance requirements and uniform curricular offerings for all community colleges;

(6) Make a continuing study of community college education in the state; and

(7) Be responsible for the accreditation of each com-

HeinOnline -- 1971 vol. I 322 1971

munity college under its supervision. Accreditation shall be conducted annually or as often as deemed advisable and made in a manner consistent with the rules and regulations established and applied uniformly to all community college districts in the state. Standards for such accreditation shall be formulated with due consideration given to curriculum offerings and entrance requirements of the Montana university system.

Annual accreditation.

Section 451. Section 75-8104. **Requirements for organization of community college district.** The registered electors in any area of the state of Montana may request an election for the organization of a community college district where the proposed community college district conforms to the following requirements: (1) The proposed area shall coincide with the then existing boundaries of contiguous elementary districts of one or more counties.

Request for election —organization of community college district requirements.

Boundaries.

(2) The assessed valuation of the proposed area is at least thirty million dollars ($30,000,000).

Assessed valuation $30,000,000.

(3) There are at least seven hundred (700) pupils regularly enrolled in public and private high schools located in the proposed area.

At least 700 pupils.

Section 452. Section 75-8105. **Petition to propose organization of community college district.** When the area of a proposed community college district satisfies the specified requirements, the registered electors of the area may petition the board of education to call an election for the organization of a community college district. Such petition shall be signed by at least twenty per cent (20%) of the registered electors within each county or a part of a county included in the area of the proposed community college district.

Petition.

20% of electors.

Section 453. Section 75-8106. **Call of community college district organization election and proposition statement.** A petition for the organization of a community college district shall be presented to the board of education. The board of education shall examine the petition to determine if the petition satisfies the petitioning and community college district organizational requirements.

Procedure.

If the board of education determines that the petition satisfies such requirements, the board of education shall order the elementary districts encompassed by the pro-

HeinOnline -- 1971 vol. I 323 1971

posed community college district to conduct an election on the community college district organization proposition. Such election shall be held on the next succeeding regular school election day, except that an election required by a petition received by the board of education less than sixty (60) days before the regular school election day shall be held at the regular school election in the following school fiscal year.

Election.

Ballot form.

At such election, the proposition shall be in substantially the following form:

PROPOSITION

Shall there be organized within the area comprising the School Districts of *(elementary districts shall be listed by county)*, State of Montana, a community college district for the offering of 13th and 14th year courses, to be known as the Community College District of ....., Montana, under the provisions of the laws authorizing community college districts in Montana, as prayed in the petition filed with the Board of Education at Helena, Montana, on the ..... day of ....., 19.....?

☐ For organization

☐ Against organization

Election of trustees —community college district determination of trustee positions.

Section 454. Section 75-8107. **Election of trustees, districts from which elected and terms of office.** The board of education shall provide for the election of trustees of the proposed community college district at the election held for the approval of its organization. Seven (7) trustees shall be elected at large, except that should there be in such proposed community college district one or more high school districts or part of a high school district within the community college district with more than forty-three per cent (43%) and not more than fifty per cent (50%) of the total school census of the proposed district, as determined by the last school census, then each such district or part of district shall elect three (3) trustees and the remaining trustees shall be elected at large from the remainder of the proposed community college district. Should any such high school district or such part of a high school district have more than fifty per cent (50%) of the total school census of the proposed district, then four (4) trustees shall be elected from such high school district or such part of high school district

HeinOnline -- 1971 vol. I 324 1971

and three (3) trustees at large from the remainder of the proposed community college district. If the trustees are elected at large throughout the entire proposed community college district, the one receiving the greatest number of votes shall be elected for a term of seven (7) years, the one receiving the next greatest number of votes, for a term of six (6) years, the one receiving the next greatest number of votes, for a term of five (5) years, the one receiving the next greatest number of votes for a term of four (4) years, the one receiving the next greatest number of votes for a term of three (3) years, the one receiving the next greatest number of votes for a term of two (2) years, and the elected one receiving the least number of votes for a term of one (1) year. If the trustees are elected in any manner other than at large throughout the entire proposed community college district, then the trustees elected shall determine by lot the one who shall serve for seven (7) years, the one who shall serve for six (6) years, the one who shall serve for five (5) years, the one who shall serve for four (4) years, the one who shall serve for three (3) years, the one who shall serve for two (2) years, and the one who shall serve for one (1) year. Thereafter, all trustees elected shall serve for terms of seven (7) years each.

Terms of office defined.

Section 455. Section 75-8108. **Call for nominations of trustee candidates and notice.** A call for nominations of trustee candidates for the proposed community college district shall be made by the board of education. Notice of the call for nominations shall be published in at least one newspaper of general circulation in each county or any portion of a county included in the proposed community college district, once a week for three consecutive weeks, the last insertion to be no less than five weeks prior to the date of the election. Such notice shall describe the geographical composition of the board of trustees membership, nomination procedure, and the proposal for the organization of a community college district.

Call for nominations.

Publication of notice.

Provisions of notice.

Section 456. Section 75-8109. **Nomination of candidates and provision of sample ballot.** Nominations of candidates for the trustee positions must be filed with the board of education at least thirty (30) days prior to the date of the election. Any five qualified electors may file nominations of as many persons as are to be elected to the board of trustees of the proposed community college dis-

Nominations filed 30 days prior to election.

Five qualified electors.

HeinOnline -- 1971 vol. I 325 1971

trict from their respective community college trustee election areas. The board of education shall provide the trustees of each district ordered to conduct the community college district organization election with a sample of the ballot for the election of the board of trustees. Such sample ballot shall be reproduced by the trustees in a sufficient number to be used as the trustee election ballot.

Sample ballots.

Ballot.

Section 457. Section 75-8110. **Notice of organization election.** Notice of the community college district organization election and the accompanying election of a board of trustees for the proposed community college district shall be given by the board of education by publication in at least one newspaper of general circulation in each county or any portion of a county included in the proposed community college district, once a week for three consecutive weeks, the last insertion to be no more than one week prior to the date of the election.

Publication of notice of election.

Once a week for three consecutive weeks.

Section 458. Section 75-8111. **Conduct of election.** The election for the organization of the community college district and the election of trustees for such community college district shall be conducted, in accordance with the school election laws, by the trustees of the elementary districts ordered to call such election. The cost of conducting such election shall be borne by the districts.

Trustees of elementary districts shall conduct election.

Costs.

Section 459. Section 75-8112. **Determination of approval or disapproval of proposition and subsequent procedures if approved.** The proposal to organize the community college district, to carry, must receive a majority of the total number of votes cast thereon and the superintendent of public instruction, from the results so certified and attested, shall determine whether the proposal has received the majority of the votes cast thereon for each county or part of a county within the proposed district and shall certify the results to the board of education. Should the certificate of the superintendent of public instruction show that the proposition to organize such community college district has received a majority of the votes cast thereon in each county or part of a county within the proposed district, the board of education shall make an order declaring the community college district organized and cause a copy thereof to be recorded in the office of the county clerk and recorder in each county in which a portion of such new district is located. If the proposition carries in some county or counties or parts of

Majority vote.

Certification.

Order.

Recording.

HeinOnline -- 1971 vol. I 326 1971

counties but not in all portions of the area sought to be included within the district, the board of education shall determine whether the area in which the proposition carried by a majority vote meets the assessed valuation and high school pupil enrollment requirements for the organization of a community college district, and if so, shall establish the boundaries and make an order declaring the community college district organized in the area in which the proposition has carried by a majority vote. If the proposition carries, the board of education also shall determine which candidates have been elected trustees. Should the proposition to organize the community college district fail to receive a majority of the votes cast thereon, no tabulation shall be made to determine the candidates elected trustees.

Determinations by board of education.

Boundaries.

Order.

Within thirty (30) days of the date of the organization order, the board of education shall set a date and call an organization meeting for the board of trustees of the community college district and shall notify the duly elected trustees of their membership and of the organization meeting. Such notification shall designate a temporary chairman and secretary for the purposes of organization.

Organization meeting.

Notice to trustees.

Section 460. Section 75-8113. **Qualifying and organization of board of trustees.** Newly elected members of the board of trustees of the community college district shall be qualified by taking the oath of office prescribed by article XIX, section 1, of the constitution of Montana. At the organization meeting called by the board of education, the board of trustees shall be organized by the election of a president and vice-president and a secretary; said secretary may be or may not be a member of the board. The treasurer of the community college district shall be the county treasurer of the county in which the community college facilities are located.

Oath.

Election of officers.

Section 461. Section 75-8114. **Election of trustees after organization of community college district.** After organization, the registered electors of the community college district shall vote for trustees on the first Saturday in April, and such elections shall be conducted by the component elementary school districts within such community college district upon the order of the board of trustees of the community college district. Such order shall be transmitted to the appropriate trustees not less

Subsequent elections.

First Saturday in April.

Order to trustees—40 days prior to election.

HeinOnline -- 1971 vol. I 327 1971

than forty (40) days prior to the regular school election day.

Publication of notice.

Notice of the community college district trustee election shall be given by the board of trustees of the community college district by publication in one (1) or more newspaper of general circulation within each county, not less than once a week for two (2) consecutive weeks, the last insertion to be no longer than one (1) week prior to the date of the election. This notice shall be in addition to the election notice to be given by the trustees of the component elementary districts under the school election laws.

Qualified voters.

Declarations of candidacy.

Ballots.

Conduct of elections.

Costs.

Should trustees be elected other than at large throughout the entire district, then only those qualified voters within the area from which the trustee or trustees are to be elected shall cast their ballots for the trustee or trustees from that area. All candidates for the office of trustee shall file their declarations of candidacy with the secretary of the board of trustees of the community college district not less than thirty (30) days prior to the date of election. If an electronic voting system or voting machines are not used in the component elementary school district or districts which conduct the election, then the board of trustees of the community college district shall cause ballots to be printed and distributed for the polling places in such component districts at the expense of the community college district, but in all other respects said elections shall be conducted in accordance with the school election laws. All costs incident to election of the community college trustees shall be borne by the community college district including one-half (1/2) of the compensation of the judges for the school elections; provided that, if the election of the community college district trustees is the only election conducted, the community college district shall compensate the district for the total cost of the election.

Section 462. Section 75-8115. **Tabulation, declaration and certification of elected trustees.** When the board of trustees of the community college district has received all the certified results of the election from the component elementary districts, the then qualified members of the board of trustees of such community college district shall tabulate the results so received, shall declare and certify the candidate or candidates receiving the greatest num-

Tabulation.

HeinOnline -- 1971 vol. I 328 1971

ber of votes to be elected to the position or positions to be filled, and shall declare and certify the results of the votes cast on any proposition presented at such election. Certification.

Section 463. Section 75-8116. **Vacancy of trustee position.** Any vacancy of a trustee's position shall be filled by appointment by the remaining trustees, and the person appointed shall hold office until the next regular school election day, when a trustee shall be elected for the remainder of the unexpired term. Vacancies.

Section 464. Section 75-8117. **Board of trustees' meetings, quorum, travel reimbursement and seal.** The board of trustees of the community college shall hold monthly meetings within the community college district on such day of the month the trustees may set. The president and secretary of the board or a majority of the board may also call special meetings of the board of trustees at any time and place within the community college district, if in their judgment necessity requires it. The secretary of the board shall notify the members of all special meetings. Monthly meetings. Special meetings. Notice.

A majority of the board of trustees shall constitute a quorum for the transaction of business except that no contract shall be let, teacher employed or dismissed, or bill approved unless a majority of the total board membership shall vote in favor of such action. Quorum.

The members of the board of trustees shall receive ten cents (10¢) per mile for the distance necessarily traveled in going to and returning from the place of the meeting and his place of residence each day that such trip is actually made. 10c per mile.

The board shall keep a common seal with which to attest its official acts. Seal.

Section 465. Section 75-8118. **Pecuniary interest and letting contracts.** It shall be unlawful for any community college district trustee to have any pecuniary interest, either directly or indirectly, in the erection of any community college building in his district, or for furnishing or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance of the college, or to receive or to accept any compensation or reward for services rendered as trustee, except as herein Conflicts of interest prohibited.

HeinOnline -- 1971 vol. I 329 1971

Advertising for bids—contracts over $2,000.

provided. No board of trustees shall let any contract (except if the amount involved is less that two thousand dollars ($2,000) for building, furnishing, repairing or other work or supplies for the benefit of the district, without first advertising once each week for at least two (2) weeks in a newspaper published in each county wherein the area of the district lies, and without calling for bids to perform such work or furnish such supplies. In all cases where advertising is required, the board shall award the contract to the lowest responsible bidder; provided, however, that the board of trustees shall have the right to reject any and all bids.

Award.

Rejection.

Instruction.

Section 466. Section 75-8119. **Courses of instruction and tuition fees.** A community college district shall provide instruction, classes, school or schools for student residents within the community college district, in academic, occupational, and adult education, subject to the approval of the board of education. The board of trustees of such district may in their discretion determine the per capita cost of such courses, file the same with the board of education and upon approval thereof by the board of education, shall require of all nondistrict residents who are accepted as pupils, a tuition fee in such sum as may be necesesary for maintenance of such course or courses. A different tuition may be established as between nondistrict residents residing within the state of Montana and those residing outside the state of Montana. In addition thereto, such board of trustees may charge resident students such amounts as it deems necessary to maintain such courses, taking into consideration such other funds as may be available under law for the support of such course.

Nonresident tuition.

Resident student charges.

Employment of personnel.

Section 467. Section 75-8120. **Employment of personnel and retirement system for employees.** The board of trustees shall appoint the employees of the community college, define and assign their powers and duties and fix their compensation.

Teachers retirement system.

The community college district and teachers of a community college district shall be subject to and the teachers shall be eligible for the benefits of the Teachers Retirement System provided by the laws of Montana.

Section 468. Section 75-8121. **Budgeting and financing, average number belonging, participation in founda-**

HeinOnline -- 1971 vol. I 330 1971

tion program, special levy, adult education and acceptance of federal funds. A community college district shall be considered a district under the high school budgeting and financing provisions of the laws of Montana for the purposes of budgeting and financing such community college district. When the community college district encompasses territory in more than one county, the community college district shall be subject to the budgeting and financing laws for a joint high school district. In either case, the budget of a community college district shall be complete and separate.

Considered district for purposes of budgeting and financing.

Separate budget.

The average number belonging for community colleges shall be determined by dividing the total number of eligible credits taken by eligible students by thirty (30). Eligible students for average number belonging calculation purposes shall be students who are under twenty-one (21) years of age for one-half or more of any quarter, including the summer quarter, and who are not concurrently enrolled in an elementary or high school. Eligible credits for average number belonging calculation purposes shall be: (1) credits taken by an eligible student;

Determination of ANB.

Eligible credits defined.

(2) credits taken in courses of instruction approved by the board of education.

Eligible credits for average number belonging calculation purposes shall not include: (1) credits taken in adult education courses;

(2) credits dropped by the eligible student before the midpoint in the quarter;

(3) credits taken in resident extension courses of the Montana university system.

The community college district shall participate in the foundation program in accordance with the laws of Montana as a high school district and the foundation program shall be determined in accordance with the high school foundation program schedule established by law.

Foundation program.

Whenever the board of trustees of a community college district shall deem it necessary to raise money by taxation in excess of the general fund budget limitation provided by law, they may proceed under the provisions for a high school district special levy to order the component elementary districts to conduct an election on the proposition for additional property taxation to raise such addi-

Additional taxation monies.

Election.

HeinOnline -- 1971 vol. I 331 1971

Conduct.

tional amount of money. Coordination of such election with the component elementary district shall be in accordance with the laws providing for the regular election of the community college trustees.

Adult education.

A community college shall be considered a district for the purposes of adult education and under the provisions for adult education may levy a one mill tax for the support of its adult education program when the superintendent of public instruction approves such program.

Authority to accept funds.

The board of trustees of a community college district is hereby authorized to accept funds from the federal government or the state of Montana, their instrumentalities or any of their agencies in aid of any one or more purposes or in maintaining and operating the community college.

Section 469. Section 75-8122. **Sources of financing for and types of capital expenditures.** The board of trustees of any community college district is hereby vested with the power and authority to: (1) build, enlarge, alter, repair or acquire by purchase school buildings and dormitories;

Powers of trustees—community college district.

(2) furnish and equip such buildings;

(3) purchase sites for such buildings;

(4) levy an additional tax not exceeding ten (10) mills on the dollar of the taxable value of all taxable property within the district for the purposes specified in this section. Such additional tax must be approved by the registered electors in the community college district who are taxpayers upon property within such district. Such election shall be conducted in accordance with the special levy provisions for community college districts.

Other powers.

The board of trustees of a community college district is further vested with the power and authority to accept or borrow monies from the federal government for the purposes of this section.

Section 470. Section 75-8123. **Acceptance of donations.** The board of trustees of a community college district, on behalf of the district, is hereby authorized and empowered to accept gifts, legacies and devises, subject to the conditions imposed by the deed of the dower, or will of the testator, or without any conditions imposed.

Donations.

HeinOnline -- 1971 vol. I 332 1971

Section 471. Section 75-8124. **Lease or sale of district property.** Whenever a district has property that is not required for the use of the district, such property may be leased or sold and conveyed to the community college district. Such lease or sale of property shall be consummated in accordance with the provisions of the law of Montana.

Use of district property.

Section 472. Section 75-8125. **Annexation of territory of districts to community college district.** Whenever the board of trustees of a community college district so resolves or whenever ten per cent (10%) of the registered electors of an elementary district or districts of one (1) county petition the board of trustees of a community college district for annexation of the territory encompassed in such elementary school districts, the board of trustees of the community college district shall order an annexation election in the area defined by the resolution or by the petition. Such election shall be ordered within sixty (60) days of the receipt of the petition or passage of the resolution.

Determination to annex.

Election within 60 days.

The election shall be conducted in the proposed area for annexation in accordance with the requirements of the community college organization election except that the board of trustees of the community college shall perform the requirements of the board of education and there shall not be an election of the board of trustees of the community college.

Conduct.

The proposition on the ballot shall be as follows:

Ballot form.

"Shall school districts ..... be annexed to and become a part of the community college district of ..... Montana?

The proposition on the ballot shall be as follows:

☐ For Annexation

☐ Against Annexation"

To carry, the proposal to annex must receive a majority of the total votes cast thereon. Upon receipt of the certified results of the election from the elementary districts encompassed in the proposed area to be annexed, the board of trustees of the community college district shall canvass the vote and declare the results of the election. If the annexation proposition carries, a certified copy of the

HeinOnline -- 1971 vol. I 333 1971

canvassing resolution shall be filed in the office of the county clerk and recorder of the county encompassing the area to be annexed and upon such filing, the area to be annexed shall then become a part of the community college district.

Property held in trust.

Section 473. Section 75-8201. **Trustees power over property.** The trustees of any district, other than a high school district operating a county high shcool, shall have the power and the responsibility to hold in trust all real and personal property of the district for the benefit of the schools and children of the district. In the name of the county, the trustees of a high school district operating a county high school, as defined by section 75-6501, shall have the power and the responsibility to hold in trust all real and personal property of the district for the benefit of the schools and children of the district.

Non user of school lands.

Section 474. Section 75-8202. **Land acquired by conditional deed or at will or sufferance.** Whenever, after the effective date of chapter 206, Laws of 1939, the trustees acquire land by deed conditioned upon the use of the land for the conduct of school or related activities or whenever land has been used by the trustees at the will or sufferance of the land's owner or claimant and the district has constructed buildings or made other improvements on

Right of re-entry.

the land, the owner or claimant may repossess the land if it ceases to be used as specified by deed, or if not specified, for the conduct of school or related activities. However,

Notice to trustees.

the owner or claimant shall first notify the trustees in writing of his intent to repossess the land, and the trustees shall thereafter have one (1) year to remove any buildings or improvements placed there by the district. The trustees failure to remove the buildings or improve-

Forfeiture of improvements.

ments within that time shall constitute a forfeiture of such buildings or improvements. Before the owner or claimant shall have the right to give notice of repossession, the district's intention to permanently cease using the land

Resolution.

Vote.

shall have been established by resolution of the trustees and vote of the district's electors.

Selection of school sites.

Section 475. Section 75-8203. **Selection of school sites, approval election, and lease of state lands.** The trustees of any district shall have the authority to select the sites for school buildings or for other school purposes

Approval by election.

but such selection shall first be approved by the qualified electors of the district before any contract for the pur-

HeinOnline -- 1971 vol. I 334 1971

chase of such site is entered into by the trustees, except the trustees shall have the authority to purchase or otherwise acquire property contiguous to an existing site that is in use for school purposes without a site approval election. Furthermore, the trustees may take an option on a site prior to the site approval election.

Exception.

Option.

The election for the approval of a site shall be called under the provisions of section 75-6406 and shall be conducted in the manner prescribed by this title for school elections. An elector who may vote at a school site election shall be qualified to vote under the provisions of section 75-6410. If a majority of those voting at the election approve the site selection, the trustees shall have the authority to purchase such sites. A site approval election shall not be required when the site was specifically identified in an election at which an additional levy or the issuance of bonds was approved for the purchase of such site.

Conduct of election.

Voter qualifications.

Majority vote.

Exception.

Any site for a school building or other building of the district that is selected or purchased by the trustees shall: (1) be in a place that is convenient, accessible and suitable;

(2) comply with the minimum size and other requirements prescribed by the board of health of the state of Montana; and

(3) comply with the statewide building regulations, if any, promulgated by the state building code council.

Mandatory site requirements.

The state board of land commissioners shall have the authority to sell, at the appraised value, or to lease for any period of time less than ninety-nine (99) years, at an amount of one dollar ($1) per year, to a district any tract of state land of not more than ten (10) acres to be used as a school site in such district.

Authority of state board to sell or lease sites.

10 acre limitation.

Section 476. Section 75-8204. **Trustees authority to acquire or dispose of sites and buildings, and when election required.** The trustees of any district shall have the authority to purchase, build, exchange, or otherwise acquire or sell or otherwise dispose of sites and buildings of the district. Such action shall not be taken by the trustees without the approval of the qualified electors of the district at an election called for such approval unless: (1) a bond issue has been authorized for the purpose of constructing, purchasing, or acquiring the site or building;

Trustees authority to deal with sites.

Approval by election.

Exceptions.

HeinOnline -- 1971 vol. I 335 1971

(2) an additional levy under the provisions of section 75-6923 has been approved for the purpose of constructing, purchasing, or acquiring the site or building;

(3) the cost of constructing, purchasing, or acquiring the site or building is financed without exceeding the maximum-general-fund-budget-without-a-vote amount prescribed in section 75-6905, and, in the case of a site purchase, the site has been approved under the provisions of section 75-8203; or

(4) monies are otherwise available under the provisions of this title and the ballot for the site approval for such building incorporated a description of the building to be located on the site.

Conduct of election. When an election is conducted under the provisions of this section, it shall be called under the provisions of section 75-6406 and shall be conducted in the manner prescribed by this title for school elections. An elector qualified to vote under the provisions of section 75-6410 shall be permitted to vote in such election. If a majority of those electors voting at the election approve the proposed action, the trustees may take the proposed action.

Voter qualifications. Majority vote.

Section 477. Section 75-8205. **Trustees may sell property when resolution passed after hearing, and appeal procedure.** Whenever the trustees of any district determine that a site, building, or any other real property of the district is or is about to become abandoned, obsolete, undesirable, or unsuitable for the school purposes of such district, the trustees may sell or otherwise dispose of such real property in accordance with this section and without conforming to the provisions of section 75-8204.

Trustees authority to dispose of real property.

Resolution. The trustees of any district shall adopt a resolution stating their intention to sell or otherwise dispose of district real property because it is or is about to become abandoned, obsolete, undesirable, or unsuitable for the school purposes of the district. When such a resolution is adopted, the trustees shall set the date of the trustees meeting when they shall consider the adoption of a resolution to authorize the sale or other disposition of such real property. The trustees shall cause notices to be posted in the manner required for school elections that state the text of the resolution of intention to sell or dispose of the real property and the time, date, and place when the resolution authorizing the sale or other disposition will

Meeting for adoption.

Posting of notice.

HeinOnline -- 1971 vol. I 336 1971

be considered for adoption. Any elector of the district shall have the right to be present and protest the passage of the resolution. If the trustees adopt the resolution and an elector has protested such adoption at the trustee meeting conducted for the hearing on the resolution, such resolution shall not become effective for five (5) days after the date of its adoption.

Elector's right to protest.

Effective date.

Any taxpayer may appeal the resolution of the trustees, at any time within five (5) days after the date of the resolution, to the district court by filing a verified petition with the clerk of such court and serving a copy of such petition upon the district. The petition shall set out in detail the objections of the petitioner to the adoption of the resolution or to the disposal of the property. The service and filing of the petition shall stay the resolution until final determination of the matter by the court. The court shall immediately fix the time for a hearing at the earliest, convenient time. At the hearing, the court shall hear the matter de novo and may take testimony as it deems necessary. Its proceedings shall be summary and informal, and its decision shall be final.

Appeal within five days to district court.

Petition.

Effect of service and filing.

Hearing.

De novo.

Decision final.

The trustees of a district that has adopted a resolution to sell or otherwise dispose of district real property and, if appealed, has been upheld by the court shall sell or dispose of such real property in any reasonable manner that they determine to be in the best interests of the district. The monies realized from the sale or disposal shall be credited to the debt service fund, building fund, general fund, or any combination of these three funds, at the discretion of the trustees.

Disposition of property.

Credit of monies.

Section 478. Section 75-8206. **Review and approval of school building plans and specifications.** No school building in the state, either publicly or privately owned or operated, shall be built, enlarged, remodeled, or repaired until the plans and specifications for such construction have been submitted to the state board of health and the state fire marshal, and such public agencies have endorsed their approval on such plans and specifications. The plans and specifications shall show in detail the proposed construction of the building and shall illustrate and indicate conformity with the regulations of the board of health and of the state fire marshal. The plans and specifications shall be prepared in accordance with the regulations of the board of health of the state of Montana, the regula-

Mandatory approval of plans and specifications.

Preparation of plans.

HeinOnline -- 1971 vol. I 337 1971

tions of the Montana state fire marshal, and the building code promulgated by the state building code council.

Review.

As a service to districts, the superintendent of public instruction shall review the plans and specifications submitted to the board of health to assist the districts in designing facilities for optimum utilization.

State board of health—regulations.

Section 479. Section 75-8207. **Regulations of board of health.** The state board of health shall adopt regulations prescribing the requirements for school sites, school buildings, ventilation, heating, lighting, water supply, sewage and waste disposal, and any other matters pertinent to the health and physical well-being of the pupils, teachers, and others who frequent schools. Such regulations of the state board of health shall require: (1) at least fifteen (15) square feet of floor space and two hundred (200) cubic feet of air space for each pupil to be accommodated in each classroom;

Mandatory requirements.

(2) a system of ventilation which shall be adequate to produce satisfactory conditions of air in all rooms of the building at all times and under all conditions;

(3) a ventilation system of fire resistant material and construction; and

(4) a system of lighting all parts of the building that will produce an adequate quality and quantity of illumination at all times.

Distribution.

The state board of health shall furnish to the districts copies of such regulations.

Payment prior to approval forbidden.

Section 480. Section 75-8208. **School building plans and specifications approval before payment.** The trustees of a district shall not make any payment under any contract for the construction of school facilities until the plans and specifications for such construction have been approved under the provisions of section 75-8206. Any contractor, architect, trustee, or any other person, firm, or corporation who shall violate the provisions of section 75-8206, this section or any regulation promulgated by the state board of health or the state fire marshal shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Penalties for violations.

Section 481. Section 75-8209. **Authorization to lease**

HeinOnline -- 1971 vol. I 338 1971

buildings for school purposes. The trustees of any district shall have the authority to lease buildings suitable for school purposes when it is within the best interests of the district to lease such building from the county, another district, or any person. Except as provided in section 75-8203, such lease may be for a term of not more than three (3) years and, when the lease is for a period of time that is longer than the current school fiscal year, the lease requirements for the succeeding school fiscal years shall be an obligation of the final budgets for such years.

Authority to lease buildings.

Limitations.

Section 482. Section 75-8210. **Letting contracts for school facilities.** Any letting of contracts related to the construction or furnishing of a new, enlarged, remodeled, or repaired building shall be conducted under the provisions of section 75-6808.

Conduct of bid lettings.

Section 483. Section 75-8211. **Leasing district property and disposition of any rentals.** The trustees of any district shall have the authority to rent, lease, or let any buildings or facilities of the district under the terms specified by the trustees. Any money collected for such rental, lease, or letting shall be deposited to the credit of that fund which finances the cost of maintaining such real property.

Authority to rent.

Deposit of monies.

Section 484. Section 75-8212. **Authority and duty of trustees to insure district property.** The trustees of any district shall have the authority and it shall be their duty to insure any or all real and personal property of the district.

Duty to insure property.

Section 485. Section 75-8301. **Gender.** Whenever the masculine gender is used in this title, it shall be understood also to mean the feminine gender.

Gender defined.

Section 486. Section 75-8302. **Fines and penalties proceeds for elementary county equalization and reporting such proceeds.** All fines and penalties collected under the provisions of this title shall be collected by the action of a court of competent jurisdiction and shall be paid into the county elementary equalization fund as provided by subsection (4) of section 75-6912. In order to implement this section and any other provision of law requiring the deposit of fines in the elementary county equalization fund, the following reports shall be made to the county superintendent of the county in which each court or

Deposit of fines and penalties.

Mandatory reports.

HeinOnline -- 1971 vol. I 339 1971

justice of the peace shall have jurisdiction: (1) during the month of September each justice of peace shall report all fines imposed and collected during the preceding year indicating the type of violation, and the date of collection; and

(2) at the close of each term the clerk of each district court shall report all fines imposed and collected during the term, indicating the tpe of violation, and the date of collection.

School officers shall not act as agents.

Section 487. Section 75-8303. **School officers not to act as agents.** The superintendent of public instruction or members of his staff, county superintendent or members of his staff, trustee or district employee shall not act as an agent or solicitor in the sale or supply of goods or services to a district. No such person shall assist or receive a reward from an agent or solicitor of goods or services for a district. Any such person violating this section shall be deemed guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than fifty dollars ($50) or more than two hundred dollars ($200) and shall be liable to removal from his position. The penalties provided by this section shall not be applicable if the charge and conviction are made under the provisions of section 75-7610.

Penalties for violation.

Oath of office.

Section 488. Section 75-8304. **Oath of office.** Any person elected or appointed to any public office authorized by this title shall take the oath of office before qualifying for and assuming the office. In case an officer has a written appointment or commission, his oath shall be endorsed thereon; otherwise it may be taken orally; and, in either case, it may, without charge or fee, be sworn to before an officer authorized to administer oaths for such public office.

Duties of county attorney as legal advisor.

Section 489. Section 75-8305. **Duty of county attorney.** The county attorney shall be the legal advisor of the county superintendent and the trustees of any district located within his county of jurisdiction, and shall prosecute and defend all suits to which such persons, in their capacity as public officials, may be a party.

Penalties for school disturbance.

Section 490. Section 75-8306. **Disturbance of school.** Any person who shall willfully disturb any school or any school meeting shall be deemed guilty of a misdemeanor and, if convicted by a court of competent jurisdiction,

HeinOnline -- 1971 vol. I 340 1971

shall be fined not less than ten dollars ($10) or more than one hundred dollars ($100).

Penalties for violations.

Section 491. Section 75-8307. **Penalty.** Unless otherwise specifically provided by law, any person who shall violate any provisions of this title shall be deemed guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than twenty dollars ($20) or more than two hundred dollars ($200), or by imprisonment in the county jail for not less than five (5) days or more than thirty (30) days, or by both such fine and imprisonment.

Thirty or more pupils.

Section 492. Section 75-8308. **Fire drill.** In a public or private school with thirty (30) or more children enrolled, the trustees of the district or those persons charged with the administration of the private school shall provide and install the number of fire gongs prescribed by the fire marshal for such school. The teachers in schools equipped with a fire gong shall instruct the children under their supervision in the fire drill procedure of their school. The district superintendent or principal or, if there is none, the teacher shall cause the conduct of a fire drill once a week for the first month of school and once each month thereafter. The fire drills shall be conducted on no certain day of the week or hour of the day by sounding the gong and immediately ushering the children out the nearest exit in single file.

Fire gongs.

Fire drills.

Penalties for noncompliance.

Any trustee, school employee or other person charged with responsibilities under this section who does not comply with this section shall be guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than five dollars ($5) or more than fifty dollars ($50).

Mandatory instruction in fire dangers.

Section 493. Section 75-8309. **Instruction in fire dangers and prevention.** Every teacher or instructor of a public or private elementary grade consisting of more than ten (10) pupils shall devote not less than ten (10) minutes in each week during which school is in session to the instruction of pupils in fire dangers.

Lesson book.

For the purpose of such instruction it shall be the duty of the commissioner of insurance to prepare a book, conveniently arranged in lessons. Such lessons shall be in a sufficient number to provide a different lesson for each

HeinOnline -- 1971 vol. I 341 1971

week of the legally prescribed school term. One of the lessons shall be read by the teachers each week. If the commissioner of insurance deems it advisable, fire danger lessons published by another state may be used in lieu of the lessons published by the commissioner of insurance.

Publication.

The fire danger book shall be published at the expense of the state from the amount appropriated for public printing, under the direction of the superintendent of public instruction, and shall be distributed by the superintendent of public instruction in quantities sufficient to provide a copy for each teacher required to give fire danger instruction.

Distribution.

Penalties for willful neglect.

Willful neglect by any person in charge of any public, private or parochial school of the elementary grades to comply with the provisions of this chapter, shall be a misdemeanor, punishable for each offense by a fine of not less than five dollars ($5) nor more than twenty dollars ($20).

Section 494. Section 75-8310. **School safety patrols.** The trustees of any district or the administration of any private school shall have the authority to organize and supervise school safety patrols for a school under their authority. The purpose of school safety patrols shall be to influence and encourage other pupils of the school to refrain from crossing public highways at points other than regular crossings and to direct pupils as to when and where to cross highways.

School safety patrols—purposes.

Composition.

The school safety patrol shall be formed from the children of the school who are nine (9) years of age or more or, if there are none, who are of the highest grade of such school. Before any child may serve on the school safety patrol, the parent or guardian of such child shall give written consent for his child to serve on the school safety patrol.

Parental consent.

No liability attaches.

No liability shall attach either to the school, educational institution, governing board, directing authority, or parent or guardian, or any individual director, member of the trustees, district superintendent, principal, teacher or other school authority by virtue of the organization, maintenance or operation of such school safety patrol because of injuries sustained by any pupil, whether a member of the patrol or otherwise by reason of the operation and maintenance thereof.

HeinOnline -- 1971 vol. I 342 1971

Identification and operation of school safety patrols shall be uniform throughout the state and the method of identification and signals to be used shall be as prescribed by the superintendent of public instruction in cooperation with the Montana highway patrol. Uniform identification.

Any municipality, city or town of this state may provide for the training of members of the school safety patrol at any authorized school patrol camp located in this state and may pay the expense necessarily incurred in providing such training, out of any funds available. for such purpose. Training.

Section 495. Section 75-8311. **It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid parts remain in effect.** If a part of this act is invalid in one or more applications, the part remains in effect in all valid applications that are severable from the invalid applications. Severability clause.

Section 496. Sections 75-101 through 75-107, 75-1201.1, 75-1202 through 75-1206, 75-1301 through 75-1308, 75-1311, 75-1312, 75-1313, 75-1315, 75-1316, 75-1317, 75-1319, 75-1320, 75-1401 through 75-1406, 75-1501 through 75-1510, 75-1512 through 75-1526, 75-1528 through 75-1535, 75-1601 through 75-1626, 75-1628 through 75-1632, 75-1632.1, 75-1633 through 75-1647, 75-1701 through 75-1706, 75-1708, 75-1709, 75-1710, 75-1712, 75-1713, 75-1713.1, 75-1714 through 75-1723, 75-1723.1, 75-1724 through 75-1730, 75-1801 through 75-1813, 75-1813.1, 75-1814 through 75-1823, 75-1825 through 75-1834, 75-1901 through 75-1905, 75-2001 through 75-2009, 75-2011 through 75-2017, 75-2101 through 75-2105, 75-2201 through 75-2215, 75-2301, 75-2302, 75-2303, 75-2401 through 75-2405, 75-2405.1, 75-2406 through 75-2411, 75-2501, 75-2506, 75-2511 through 75-2516, 75-2518 through 75-2522, 75-2701 through 75-2709, 75-2709.1, 75-2709.2, 75-2710 through 75-2716, 75-2801, 75-2802, 75-2901 through 75-2910, 75-3101, 75-3102, 75-3104 through 75-3125, 75-3201, 75-3202, 75-3203, 75-3308 through 75-3311, 75-3401 through 75-3414, 75-3501, 75-3503 through 75-3511, 75-3610, 75-3611, 75-3612, 75-3612.1, 75-3612.2, 75-3612.3, 75-3613 through 75-3624, 75-3701, 75-3706, 75-3709 through 75-3714, 75-3716 through 75-3720, 75-3722 through 75-3729, 75-3729.1, 75-3734 through 75-3742, 75-3801 through 75-3806, 75-3901 through 75-3946, 75-4001 through 75-4007, 75-4101, 75-4103 through 75-4113, 75-4115 through 75-4118, Repealing clause.

HeinOnline -- 1971 vol. I 343 1971

75-4120, 75-4120.1, 75-4120.2, 75-4120.3, 75-4121 through 75-4144, 75-4146 through 75-4153, 75-4201 through 75-4228, 75-4230 through 75-4242, 75-4244 through 75-4248, 75-4309 through 75-4323, 75-4413 through 75-4430, 75-4501 through 75-4506, 75-4511, 75-4512, 75-4514, 75-4515, 75-4516.1, 75-4516.2, 75-4517, 75-4518, 75-4518.1, 75-4519 through 75-4527, 75-4529 through 75-4535, 75-4537, 75-4538, 75-4540, 75-4601 through 75-4607, 75-4609 through 75-4614, 75-4701 through 75-4709, 75-4801 through 75-4809, 75-5001 through 75-5007, 75-5101, 75-5310 through 75-5317, 75-5401 through 75-5405, 75-5501 through 75-5508, R.C.M. 1947, are repealed.

Effective immediately.

Section 497. This act is effective on its passage and approval.

Approved January 26, 1971

CHAPTER NO. 6

An Act to Amend Section 15-22-119, R.C.M., 1947, to Change the Time For Filing Annual Reports.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 15-22-119, R.C.M., 1947, is amended to read as follows:

Annual report due between January 1 and April 15 of each year.

"15-22-119. **Filing of annual report of domestic and foreign corporations.** Such annual report of a domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the *fifteenth* day of *April* of each year, except that the first annual report of a domestic or foreign corporation shall be filed between the first day of January and the *fifteenth* day of *April* of the year next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state. Proof to the satisfaction of the secretary of state that prior to the *fifteenth* day of *April* such report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the secretary of state finds that such report conforms to the requirements of this act, he shall

Proof of mailing.

HeinOnline -- 1971 vol. I 344 1971

file the same. If he finds that it does not so conform, he shall promptly return the same to the corporation for any necessary corrections, in which event the penalties hereinafter prescribed for failure to file such report within the time hereinabove provided shall not apply, if such report is corrected to conform to the requirements of this act and returned to the secretary of state within thirty days from the date on which it was mailed to the corporation by the secretary of state."

Penalties do not apply if report corrected within 30 days.

Approved January 26, 1971.

CHAPTER NO. 7

An Act to be Known as the "Territorial Integrity Act of 1971" and to Prescribe Certain Rights and Enforcement Thereof With Respect to the Furnishing of Electric Service, Amending Section 14-502, R.C.M., 1947, Relating to the Purposes for Which Cooperatives May be Organized; and Section 14-530, R.C.M., 1947, Relating to Definitions and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act shall be known and may be cited as the "Territorial Integrity Act of 1971."

Title citation.

Section 2. When used in this act:

(1) The term "electric supplier" means any electrical utility and any electric cooperative.

Electric supplier defined.

(2) The term "electric utility" means a person, firm or corporation other than an electric cooperative which furnishes electrical service to the public.

Electric utility defined.

(3) The term "electric cooperative" means a rural electric cooperative organized under chapter 5 of Title 14, R.C.M. 1947, or a foreign corporation admitted thereunder to do business in Montana.

Electric cooperative defined.

(4) The term "premises" means a building, residence, structure, or facility to which electricity is being or is to be furnished; provided, that two or more buildings, structures or facilities which are located on one tract or contiguous tracts of land and are utilized by one electric consumer for farming, business, commercial, industrial,

Premises defined.

HeinOnline -- 1971 vol. I 345 1971

institutional, governmental or trailer court purposes, shall together constitute one premises, except that any such building, structure or facility other than a trailer court shall not, together with any other building, structure or facility, constitute one premises if the electric service to it is separately metered and the charges for such service are calculated independently of charges for service to any other building, structure or facility.

Line defined.

(5) The term "line" means any electric conductor operating at a nominal voltage level of sixty-nine thousand (69,000) volts or less, measured phase-to-phase.

Commercial premises defined.

(6) The term "commercial premises" means the premises where the business of selling, warehousing or distributing a commodity, or other business activity is carried on, or professional or other services are rendered.

Industrial premises defined.

(7) The term "industrial premises" means the premises where an industrial activity is carried on, including, but not limited to, the operation of factories, mills, machine shops, mines, oil wells, refineries, pumping, cleaning and dyeing works, creameries, canneries, stockyards, feedlots, military installations, or other extractive, fabricating or processing activities.

Service areas.

Section 3. With respect to service in all areas outside the boundaries of any incorporated or unincorporated city, town, village or borough having a population

3500 population or less.

in excess of thirty-five hundred (3500) persons at the time of the passage and approval of chapter 172, Session Laws of Montana, 1939, or subsequent thereto, and every incorporated municipality in which ninety-five percent (95%) or more of the premises are served by an electric cooperative on the effective date of the Territorial Integrity Act of 1971, electric suppliers shall have rights and be subject to restrictions as follows:

Electric suppliers—rights and restrictions.

Right to serve premises—effective date.

(1) Every electric supplier shall have the right to serve all premises being served by it, or to which any of its facilities are attached, on the effective date of this act.

Supplier having line nearest premises—effective date.

(2) (a) Subject to section 3 (3) of this act the electric supplier having a line nearest the premises, as measured in accordance with section 3 (2) (b) of this act, shall serve premises initially requiring service after the effective date of this act.

HeinOnline -- 1971 vol. I 346 1971

(b) All measurements under this act shall be made on the shortest straight line which can be drawn from the conductor nearest the premises to the nearest permanent portion of the premises. Construction power for premises to be constructed shall be supplied by the electric supplier having the right to serve the completed premises.

Measurement—straight line to premises.

Construction power.

(3) An electric utility shall have the right to furnish electric service to any industrial or commercial premises if the estimated connected load for full plant operation at such industrial or commercial premises will be 400 kilowatts or larger within two (2) years from the date of initial service, provided however such electric utility can extend its lines to such industrial or commercial premises at less cost to the electric utility, or the industrial or commercial customer, than the electric cooperative cost. An independent consultant engineer agreeable to both electric suppliers, or in the event of failure of the electric suppliers to agree on a consultant engineer then by an independent consultant engineer selected by the district court having jurisdiction as provided in section 6 of this act shall determine which electric supplier can extend its lines to the consumer at the least costs. The costs of such engineering services shall be paid equally by the electric suppliers involved. No premises other than another such commercial or industrial premises shall be served from a line constructed under this section. The fact that actual connected load after two (2) years from the date of initial service exceeds or fails to equal 400 kilowatts shall not affect the right of the electric supplier initially providing service to continue service to such premises. The estimated connected load shall be determined from the plans and specifications prepared for construction of the premises or, if such estimate is not available, shall be determined by agreement of the electric supplier and the customer.

Right to serve industrial premises—400 kilowatt or larger load within two years.

Less cost.

Determination by engineer.

Costs paid by supplier.

Right to continue service.

Estimated load determination.

(4) Nothing in this section shall restrict the right of an electric supplier to furnish electric service to any property owned by the electric supplier.

No restriction on property of supplier.

Section 4. Notwithstanding the provisions of section 3 of this act, any electric supplier may furnish electric service to any consumer at any premises being served by another electric supplier upon written agreement of

Written agreement with consumer.

HeinOnline -- 1971 vol. I 347 1971

the affected electric suppliers, or at premises which another electric supplier has the right to serve pursuant to this act, upon written agreement of the affected electric suppliers.

Annexed areas.

Section 5. With respect to service in areas which are annexed to incorporated municipalities having a population in excess of thirty-five hundred (3500) persons at the time of the passage and approval of chapter 172, Sessions Laws of Montana, 1939, or subsequent thereto, electric suppliers shall have rights and be subject to restrictions as follows:

More than 3500 population.

Right to continue service.

(1) Every electric supplier shall have the right to serve all premises being served by it on the date of annexation.

Restriction—electric cooperatives right to serve.

(2) An electric cooperative shall not have the right to serve any premises initially requiring service on or after the date of annexation. The restriction stated in this subsection does not apply to incorporated municipalities in which ninety-five percent (95%) or more of the premises are served by an electric cooperative on the effective date of this act.

District courts have jurisdiction.

Section 6. The district courts of the county or counties within which the premises or lines involved in any dispute are located shall have jurisdiction under this act over all electric suppliers subject to the provisions thereof.

Failure of performance.

Section 7. Whenever it shall appear that any electric supplier is failing or omitting, or about to fail or omit, to do anything required of it by this act, or is doing, or is about to do anything or to permit anything to be done contrary to or in violation of this act, any electric supplier affected thereby shall have the right to file a complaint in the district court briefly setting forth the acts or omissions complained of and requesting an injunction. If an affidavit showing that grounds exist therefor is filed with the complaint, a temporary restraining order shall be issued without notice. A copy of the temporary restraining order, complaint and affidavit shall be served upon the defendant, together with an order to show cause why the temporary restraining order should not be made permanent, within five (5) days after issuance of the temporary restraining order.

Right to sue.

Injunction.

Affidavit.

Temporary restraining order.

Service on defendant.

HeinOnline -- 1971 vol. I 348 1971

The hearing on the order to show cause must be held at a date specified therein, which shall not be more than ten (10) days after service thereof, and shall take precedence over all matters pending before the district court. Hearing. Precedence.

A judgment making the injunction permanent or dissolving the temporary restraining order theretofore issued and dismissing the complaint must be made not later than ten (10) days after the hearing on the order to show cause. Judgment. 10 days.

Any party aggrieved by the order may appeal to the Supreme Court of Montana by filing a notice of appeal in the district court within twenty (20) days from entry of the order. The appeal must be perfected within twenty (20) days thereafter and shall take precedence over all matters pending before the Supreme Court of Montana. Appeal. Notice—20 days.

Section 8. Nothing in this act shall be construed to prevent:

(1) the completion of lines under actual construction on the effective date of this act; or Completion of lines under construction.

(2) the construction of lines to provide service under electric power supply contracts and electric service contracts entered into prior to the effective date of this act. Under contract.

Section 9. Section 14-502, R.C.M. 1947, is amended to read as follows: Amending clause.

"14-502. **Purpose.** Cooperative, nonprofit, membership corporations may be organized under this act for the following purposes: Organizations. Purposes.

(a) For the purpose of supplying electric energy and promoting and extending the use thereof in rural areas, *as provided in this act.* Rural electrical service.

(b) For the purpose of making generally available in rural areas adequate telephone service through the improvement and expansion of existing telephone facilities and the construction and operation of such additional facilities as are required to assure the availability of such service to the widest practicable number of rural users thereof, provided that nonduplication of lines, fa- Rural telephone services.

HeinOnline -- 1971 vol. I 349 1971

cilities or systems providing reasonably adequate service will result therefrom.

"Cooperatives" defined. Corporations organized under this act and corporations which become subject to this act in the manner hereinafter provided are hereinafter referred to as "cooperatives"."

Amending clause. Section 10. Section 14-530, R.C.M.1947, is amended to read as follows:

"14-530. **Definitions.** In this act, unless the context otherwise requires:

"Rural area" defined. (a) "Rural area" as applied to all corporations organized under the provisions of paragraph (a) of section 14-502, means any area not included within the boundaries of any incorporated or unincorporated city, town, village or borough having a population in excess of thirty-five hundred (3500) persons at the time of the passage and approval of chapter 172, Session Laws of Montana, 1939, or subsequent thereto, *and every incorporated municipality in which ninety-five percent (95%) or more of the premises are served by an electric cooperative on the effective date of the Territorial Integrity Act of 1971;* "rural area" as applied to all corporations organized under the provisions of paragraph (b) of section 14-502, means any area not included within the boundaries of any incorporated or unincorporated city or town having a population in excess of fifteen hundred (1500) persons.

"Person". (b) "Person" includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision or agency thereof or any body politic; and

"Member." (c) "Member" means each incorporator of a cooperative and each person admitted to and retaining membership therein, and shall include a husband and wife admitted to joint membership."

Repealing clause. Section 11. All acts and parts of acts in conflict herewith are hereby repealed.

Severability clause. Section 12. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid

HeinOnline -- 1971 vol. I 350 1971

applications that are severable from the invalid applications.

Section 13. This act is effective on its passage and approval. Effective immediately.

Approved February 1, 1971.

CHAPTER NO. 8

An Act Amending Section 26-332, R.C.M., 1947, Concerning Restrictions About Method of Catching, Possession, and Sale of Fish.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-332, R.C.M., 1947, is amended to read as follows: Amending clause.

"26-332. **Method of catching fish—use of traps, seines and nets—restrictions concerning possession and sale of fish.** Every person who takes or catches fish in any of the waters of this state except with hook and line held in hand or line and hook attached to rod or pole held in hand, or who takes or catches fish with hook baited with any poisonous substance or by means of the use of any poisonous substance, including fish berries, or who takes or catches fish by means of the use of fish-traps, grab hooks, seines, nets, or other similar means for catching fish, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished as provided for in section 26-324, and the amendments thereto; provided, however, that the Montana fish and game commission shall have the power, authority, and jurisdiction, to designate such waters within the state of Montana, wherein, in the judgment of the members of said commission, spears or gigs may be used for taking walleyed pike, sauger, northern pike and nongame fish, and traps, seines, or nets, and rubber or spring propelled spears when employed by sportsmen swimming or submerged in the water, may be used for the taking of designated species of fish and to close such waters so designated at the discretion of the commission, and to permit the taking of black bass in Flathead Lake, the taking of all fish by said means in said waters when so designated to be

Restrictions on methods of taking fish.

Misdemeanor penalties.

Fish and game commission may designate waters for spear fishing.

HeinOnline -- 1971 vol. I 351 1971

Rules and regulations.

done under such rules and regulations as said commission may prescribe with reference thereto, and under

Possession and sale.

the supervision of said commission, and all such non-game fish so taken may be possessed and sold in such manner and under such restrictions as said commission

Return of uninjured game fish.

may direct, all fish other than those herein designated so taken under said rules and regulations when prescribed by said commission, shall be returned uninjured to the waters from which they were taken."

Approved February 1, 1971.

CHAPTER NO. 9

An Act to Amend Section 67-1602.1, R.C.M., 1947, to Validate all Joint Tenancies Created by Direct Conveyance Prior to July 1, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 67-1602.1, R.C.M., 1947, is amended to read as follows:

"67-1602.1. **Joint tenancy created by direct conveyance.**

Joint tenancy may be created by direct conveyance.

A joint tenancy as to any interest in real property may be established by the owner thereof, by designating in the instrument of conveyance or transfer, the names of such joint tenants including his own, without the necessity of any transfer or conveyance to or through a third person.

Validation clause.

All joint tenancies created in this manner prior to July 1, 1963, are sufficient in law to create a joint tenancy."

Approved February 1, 1971.

CHAPTER NO. 10

An Act to Amend Section 59-538, R.C.M., 1947, Providing Per Diem Allowance For State Employees.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 59-538, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 352 1971

"59-538. **Expenses of persons in state service—per diem allowance.** Every person engaged in any service in every department of state, except the governor and the attorney general, state auditor, superintendent of public instruction, railroad commissioners, secretary of state, state treasurer, clerk of the supreme court and justices of the supreme court who shall be paid actual and necessary expenses as hereinafter provided exclusive of persons in appointive positions, or positions created by law, whose duties consist of full or partial time in traveling to perform any service for the state under monthly or yearly salary, or who may be sent by any authorized executive of any department of the state upon a mission in performance of any clerical work, supervisory or extension work or otherwise, of every kind and character, shall be allowed, for the time engaged in such travel, thirteen dollars and fifty cents ($13.50) per day for such travel within the state of Montana, and for travel outside the state of Montana the sum of twenty-two dollars and fifty cents ($22.50) per day for meals and other necessary expenses; *except that for travel within the District of Columbia the sum of thirty dollars ($30.00) per day shall be allowed and* provided, that the provisions of this act shall not apply to persons holding offices specifically provided for in section 93-305, or section 93-313; provided that nothing herein contained shall be construed as affecting the validity of section 43-310; and provided further that the provisions of this act shall not apply to the elective state public officers of the state of Montana. The governor shall be authorized actual and necessary expenses not to exceed sixty dollars ($60.00) per day. The attorney general, state auditor, superintendent of public instruction, railroad commissioners, secretary of state, state treasurer, clerk of supreme court and justices of supreme court shall be authorized actual and and necessary expenses not to exceed forty dollars ($40.00) per day while engaged in state service away from Montana."

Persons in state service—per diem allowances.

$13.50 per day in state.

$22.50 per day out of state.

$30.00 per day in District of Columbia

Exceptions.

$60.00 per day maximum for governor.

Other elected officers—maximum —$40.00 per day.

Approved February 1, 1971.

CHAPTER NO. 11

An Act to Amend Section 82-1914, R.C.M. 1947, By Adding a New Paragraph Providing That the Proceeds

HeinOnline -- 1971 vol. I 353 1971

From the Sale of Used and Surplus Material, Supplies, Equipment and Other Personal Property of the State Highway Commission Be Placed in Earmarked Revenue Fund to the Credit of the Highway Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-1914, R.C.M. 1947, is amended to read as follows:

Power to dispose of state property.

"82-1914. **Sale of state property.** The state controller shall have exclusive power, subject to the consent and approval of the governor, to sell, or otherwise dispose of, or to authorize the sale or other disposition of, all materials and supplies, service, equipment, or other personal property of every kind now owned by the state of Montana, but not needed or used by any state institution or by any department of the state government.

Sale of highway equipment shall be by public auction or sealed bid.

All sales of highway equipment shall be by public auction or sealed bids and all proceeds received by the state controller from the sale of all material, supplies, equipment and all other personal property of the state highway commission shall be placed in the earmarked revenue fund to the credit of the highway commission."

Effective immediately.

Section 2. This act to become effective upon passage and approval.

Approved February 2, 1971.

CHAPTER NO. 12

An Act to Delete Erroneous Revised Codes of Montana Reference Citations in the Special Fuel Tax Laws and Insertion Therein of Correct Citations; Amending Sections 84-1832 and 84-1833, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1832, R.C.M. 1947, is amended to read as follows:

Tax imposed on special fuel for motor vehicles.

"84-1832. **Tax imposed.** There is hereby levied and imposed a tax on the use of each and every gallon of special fuel in any motor vehicle while operated upon the highways, equivalent to the lawful tax levied on

HeinOnline -- 1971 vol. I 354 1971

motor fuel under section 84-1832.1 or on liquid petroleum gases under section *84-1847*. Said tax, with respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles in this state, shall attach at the time of such delivery and shall be collected by such special fuel dealer from the special fuel user and shall be paid over to the board as hereinafter provided. Said tax, with respect to special fuel acquired by any special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle, shall attach at the time of the consumption of such fuel in the propulsion of a motor vehicle upon the highways of the state and shall be paid over to the board by the special fuel user as hereinafter provided. The various counties, incorporated cities and towns and school districts of this state shall be exempt from the levy and imposition of this tax."

Attaches at time of delivery.

Attaches at time of consumption.

Exemptions.

Section 2. Section 84-1833, R.C.M. 1947, is amended to read as follows:

Amending clause.

"84-1833. **Special fuel dealers' and special fuel users' licenses and special fuel vehicle permits.** (a) Required: It shall be unlawful for any person to act as a special fuel dealer in this state unless such person in the holder of an uncanceled fuel dealers' license issued to him by the board.

Special fuel licenses and permits.

Special fuel dealer's license required.

Every special fuel user shall obtain from the board, prior to the use of such special fuel for the propulsion of a motor vehicle or vehicles in this state, a special fuel users' license, and a special fuel vehicle permit for each such vehicle or vehicles operated by him upon the highways as herein defined, which permit shall at all times be carried in the vehicle for which it was issued, and shall be exhibited for inspection on request of any checking station officer, Montana highway patrol officer, any member of the state board of equalization or any authorized employee of said board, or any other law enforcement officer.

Special fuel user's permit required.

Permit shall be carried in vehicle.

(b) Application: Application for a special fuel dealer's license, a special fuel user's license, or a special fuel vehicle permit shall be made to the board.

Application to board.

(c) Form of application: The application shall be filed upon a form prepared and furnished by the board.

Forms.

HeinOnline -- 1971 vol. I 355 1971

The application shall contain such information as the board deems necessary.

Bond required.

(d) Bond: No special fuel dealer's license or special fuel user's license shall be issued to any person or continued in force unless such person has furnished bond, as defined in section 84-1831(i) and in such form as the board may require to secure its compliance with this act, and the payment of any and all taxes, interest and penalties due and to become due hereunder. Upon application the board may waive the bond requirement of any special fuel user who establishes to the reasonable satisfaction of the board that no tax, interest or penalties are accrued under the provisions of this act.

Waiver.

Amount of bond required.

The total amount of the bond or bonds required of any special fuel dealer or special fuel user shall be equivalent to twice his estimated monthly tax payments as hereinafter provided, determined in such manner as said board may deem proper: provided, however, that the total amount of the bond or bonds shall never be less than five thousand dollars ($5,000) for any special fuel user awarded a contract in accordance with section *84-1832.1,* nor less than five hundred dollars ($500) for any other special fuel user; and not less than one thousand dollars ($1,000) for a special fuel dealer.

Board shall issue licenses and permits.

(e) Issuance: Upon receipt of the application and bond in proper form, the board shall issue to the applicant a license to act as a special fuel dealer or special fuel user or a special fuel vehicle permit; provided,

Exceptions.

however, the board may refuse to issue a special fuel dealer's license, a special fuel user's license or a special fuel vehicle permit to any person: (1) who formerly

Prior revocation.

held either type of license or permit which, prior to the time of filing application has been revoked for cause; or

Not real party in interest.

(2) who is not the real party in interest and where the license or permit of the real party in interest has been revoked for cause prior to the time of filing such application; or (3) upon other sufficient cause being

Hearing before refusal.

shown. Before such refusal, the board shall grant the applicant a hearing and shall grant him at least ten (10)

Notice.

days' written notice of the time and place thereof.

Validity.

(f) Expiration of license or permit: Each special fuel dealer's license, special fuel user's license and special

HeinOnline -- 1971 vol. I 356 1971

fuel vehicle permit shall be valid until suspended or revoked for cause or otherwise canceled.

Assignment forbidden.

(g) Assignment forbidden: No special fuel dealer's license, special fuel user's license or special fuel vehicle permit shall be transferable.

Board may revoke.

(h) Revocation, suspension, cancellation and surrender of license and permit: The board may revoke the license of any special fuel dealer or special fuel user or any special fuel vehicle permit for reasonable cause. Before revoking such license or permit, the board shall notify the licensee or permittee of its intention so to do, by either certified or registered mail, addressed to his last known address shown in the files of the board, requiring him to appear before the board on a day and hour specified in such notice, not more than thirty (30) days nor less than ten (10) days from date of such notice, and show cause, if any he has, why the license or the permit, or each of them, should not be revoked; provided, however, that at any time prior to and pending such hearing the board may, in the exercise of reasonable discretion, suspend such license or permit.

Notice of intention.

Show cause.

Suspension.

Surrender for cancellation.

Upon revocation by the board of any such license or permit, the holder thereof shall immediately surrender the same to the board for cancellation; and the holder of any such permit, having permanently discontinued the use of any vehicle for which the permit was issued, for whatever reason, shall immediately surrender the same to the board for cancellation.

Cancellation immediately.

The board shall cancel any license to act as a special fuel dealer or a special fuel user or any special fuel vehicle permit immediately upon surrender thereof by the holder.

Release of surety.

(i) Release of surety: Any surety on a bond furnished by a special fuel dealer or special fuel user as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of thirty (30) days from the date upon which such surety shall have lodged with the board a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall

Thirty days after written request.

HeinOnline -- 1971 vol. I 357 1971

accrue before the expiration of the thirty (30) day period. The board shall promptly upon receiving any such request, notify the special fuel dealer or special fuel user who furnished the bond, and unless the special fuel dealer or special fuel user shall, on or before the expiration of the thirty (30) day period, file a new bond, in accordance with the requirements of this section, or make a deposit in lieu thereof as provided in section 84-1831(i), the board forthwith shall cancel the special fuel dealer's or special fuel user's license.

Notice to dealer or user.

New bond.

Deposit.

Cancellation.

Board may require new or additional bond.

(j) Additional bond or deposit: The board may require a special fuel dealer or special fuel user to give a new or additional surety bond or to deposit additional securities of the character specified in section 84-1831(i), if, in its opinion, the security of the surety bond theretofore filed by such special fuel dealer or special fuel user, or the market value of the properties deposited as security by such special fuel dealer or special fuel user, shall become impaired or inadequate; and upon failure of the special fuel dealer or special fuel user to give such new additional surety bond or to deposit additional securities within thirty (30) days after being requested so to do by the board, said board forthwith shall cancel his license.

Cancellation.

Special fuel taxes, penalties and interest—lien on property—filing.

(k) All special fuel taxes due from any dealer or user under the provisions of this act, together with all penalties and interest thereon shall be a lien upon any and all property of such dealer, user or other person upon the filing by the state board of equalization of a duplicate copy of the statement so made by the state board of equalization, or a certified copy of any statement filed by said board in the office of the county clerk of the county where such property is situated which lien shall have precedence over any other claim, lien or demand thereafter filed or recorded and which may be enforced in the name of the state of Montana in the same manner as judgment liens are enforced by law."

Priority.

Effective immediately.

Section 3. This act is effective upon its passage and approval.

Approved February 2, 1971.

HeinOnline -- 1971 vol. I 358 1971

CHAPTER NO. 13

An Act Deleting That Provision Regarding Refunds on Aviation Gasoline Tax Allocated to the State Aeronautics Commission by Section 1-501, R.C.M. 1947, from the Definition Section of the Gasoline License Tax Laws and Inserting Same into its Proper Position in the Refund Procedure Section of Said Gasoline License Tax Laws; Amending Sections 84-1846 and 84-1855, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1846, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1846. **Definitions.** As used in this act, the following definitions shall apply: Definitions.

(1) The term "gasoline" includes all products commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline, aviation gasoline and all flammable liquids, composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. The term "gasoline" does not include special fuels as defined in section 84-1831(e). "Gasoline."

(2) The word "person" means any person, firm, association, joint-stock company, syndicate or corporation. "Person."

(3) The words "motor vehicle" mean all vehicles operated or propelled upon the public highways or streets of this state, in whole or in part by the combustion of gasoline. "Mother vehicle."

(4) The word "use" shall include and mean the operation of motor vehicles upon the public roads or highways of the state of Montana, or of any political subdivision thereof. "Use."

(5) The word "import" shall include and mean to receive into any person's possession or custody first after its arrival and coming to rest at destination within the state of Montana of any gasoline shipped or transported into this state from point of origin without this state, other than in the fuel supply tank of a motor vehicle. "Import."

HeinOnline -- 1971 vol. I 359 1971

"Distributed." (6) Gasoline deemed to be "distributed." (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks thereat, or gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks thereat, or gasoline imported into this state and placed in storage at refineries or pipeline terminals, shall be deemed to be distributed, for the purpose of this act, at the time the gasoline is withdrawn from such tanks, refinery or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such tanks, refinery or terminal, such gasoline may be distributed only by a person who is the holder of a valid distributor's license.

Storage.

Time of withdrawal.

Distributor's license.

Imported gasoline brought to rest in state. (b) Gasoline imported into this state other than that gasoline placed in storage at refineries or pipeline terminals, shall be deemed to be distributed after it has arrived in and is brought to rest in this state.

"Distributor" defined. (7) The word "distributor" means

(a) any person who engages in the business in this state of producing, refining, manufacturing or compounding gasoline for sale, use or distribution,

(b) any person who imports gasoline for sale, use or distribution,

(c) any dealer licensed as of January 1, 1969, except a dealer at an established airport.

"Aviation gasoline" defined. (8) The words "aviation gasoline" mean gasoline or any other liquid fuel by whatsoever name such liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all such gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft."

Amending clause. Section 2. Section 84-1855, R.C.M. 1947, is amended to read as follows:

"84-1855. **Refund of gasoline license tax—procedure.** (1) Any person who shall purchase and use any gasoline, on which the Montana gasoline license tax has been paid, for operating or propelling stationary gasoline

Refund of tax for non-highway use.

HeinOnline -- 1971 vol. I 360 1971

engines, tractors used off the public highways and streets, motorboats, airplanes or aircraft, or for cleaning or dyeing, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state, shall be allowed a refund of the amount of tax paid directly or indirectly on the gasoline so used. Provided, that such refund or drawback should in no instance exceed the tax paid or to be paid, to the state of Montana; and no refund shall be allowed on any sale with respect to which as aviation gasoline tax exemption certificate has been issued, *and no refund shall be allowed of that portion of the tax per gallon upon aviation gasoline allocated to the state aeronautics commission by section 1-501, R.C.M. 1947.*

Limitation.

Exception—tax allocated to aeronautics commission.

Any distributor paying the gasoline license tax to this state erroneously shall be allowed a credit or refund of the amount of tax so paid.

Credit for erroneous payment.

The application for refund shall be a signed statement on forms furnished by the board, accompanied by the invoice or invoices issued to the claimant, showing the total amount of the gasoline on which a refund is claimed and the reason, the amount of the tax and any additional information required by the board. Each separate delivery shall constitute a purchase. If any invoice is either lost or destroyed, the purchaser may support his claim for refund by submitting an affidavit relating the circumstances of such loss or destruction and by producing such other evidence as may be required by the board.

Application for refund.

Affidavit for missing invoices.

(2) All applications for refunds shall be filed with the board of equalization within thirteen (13) months after the date on which the gasoline was purchased as shown by invoices or after the date on which the tax was erroneously paid. Provided, however, that a distributor may file a claim for refund of taxes erroneously paid within three (3) years after the date of such erroneous payment. The board shall have one hundred twenty (120) days after receiving the claim to approve or reject it. If approved, the board shall issue a credit in lieu of refund for the amount of the claim, if the claimant is a distributor. For all other persons, a warrant shall be drawn upon the state treasurer for the amount of the claim.

Filing within 13 months of purchase.

Distributor may file within 3 years for erroneous payment.

Board has 120 days to approve or reject.

Credit for distributor.

Warrant.

HeinOnline -- 1971 vol. I 361 1971

Board may correct errors.

(3) Should the board of equalization find that the statement contains errors which are not fraudulently inserted, it may correct the statement and approve it as corrected, or the board may require the claimant to file an amended statement. If the state board of equalization determines that any claim has been fraudulently presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the claim or affidavit is willfully false and made for the purpose of misleading, the board may reject such claim in full. If a claim is rejected, the board may suspend claimant's right to refund for a period not to exceed one (1) year.

Determination of fraudulent claims.

Rejection.

Suspension.

Permit—person desiring to claim refund.

(4) Any person, other than a licensed distributor, desiring to claim refund on gasoline purchased shall obtain a permit from the state board of equalization. The application for permit shall contain the applicant's name, address, occupation, nature of business, identification of machinery and equipment in which the taxable motor fuel is to be used, and any other information which may be required by the board.

Permit number.

(5) Each permit issued shall bear a permit number and each claim filed shall bear the permit number of the claimant. The state board of equalization shall keep a record of all permits issued and a cumulative record of refunds claimed and paid thereunder.

Board shall keep records.

$1.00 fee.

A fee of one dollar ($1) shall be collected from each person to whom a refund permit is issued. No refund shall be paid to any person unless said person has first secured a refund permit and paid said fee. The refund permit must be renewed and the license fee paid every five (5) years from the date of issuance.

Renewal and fee every 5 years.

Permit person desiring to sell gasoline subject to refund.

(6) Any person, other than a licensed distributor, shall obtain a permit from the state board of equalization prior to selling gasoline on which a refund may be claimed. The application for permit shall contain the applicant's name, address, place or places of business in the state of Montana, and other information which may be required by the board. Permits issued shall bear a permit number and the date of issuance. The board shall keep a record of all permits issued, canceled, or suspended. Permits shall be issued for the calendar year upon payment of a fee of one dollar ($1) and must be renewed annually before the first day of January.

Number and date.

$1.00 fee.

HeinOnline -- 1971 vol. I 362 1971

Any person failing to comply with this subsection shall be subject to a fine of not less than twenty-five dollars ($25) or more than two hundred dollars ($200) or imprisonment in the county jail for a period not less than ten (10) days or more than sixty (60) days, or both fine and imprisonment." Penalties for violation.

Section 3. This act is effective on its passage and approval. Effective immediately.

Approved February 2, 1971.

CHAPTER NO. 14

An Act to Prohibit Insurers from Cancelling a Professional Liability Insurance Policy or Increasing the Premium Rates Thereon Without First Providing the Insured Sixty (60) Days Notice in Writing Prior to Such Cancellation or Increase in Premium Rate.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any insurer who insures a physician and surgeon, dentist, registered nurse, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropracter, pharmacist, optometrist, or veterinarian, duly licensed as such under the laws of this state, or a licensed hospital as the employer of any such person against liability for error, omission, professional negligence, or performance of services without consent, shall not cancel the policy so insuring such person or increase the premium rates thereon without first providing the insured sixty (60) days written notice of the insurer's intention to cancel the policy or increase the premium rates. Insurer under professional liability policy shall not cancel or increase rates without 60 days prior notice.

Approved February 2, 1971.

CHAPTER NO. 15

An Act Amending Section 84-4903, R.C.M. 1947, to Provide for an Alternative Tax for Nonresident Taxpayers Based on Gross Sales as Required by the Multistate Tax Compact and Providing an Effective Date.

HeinOnline -- 1971 vol. I 363 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4903, R.C.M. 1947, is amended to read as follows:

Tax imposed on non-residents based on net income from property in state.

"84-4903. **Tax on nonresident**—*alternative tax based on gross sales.* (a) A like tax is imposed upon every person not resident of this state which tax shall be levied, collected and paid annually, at the rates specified in section 84-4902, with respect to his entire net income as herein defined from all property owned and from every business, trade, profession, or occupation carried on in this state.

Nonresident taxpayeer may elect to pay ½ of 1% of gross sales.

(b) Pursuant to the provisions of article III, section 2, of the Multistate Tax Compact (Title 24, chapter 67, R.C.M. 1947), every nonresident taxpayer required to file a return, and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana, and whose annual gross volume of sales made in Montana during the taxable year do not exceed one hundred thousand dollars ($100,000), may elect to pay an income tax of one-half (½) of one percent (1%) of the dollar volume of gross sales made in Montana during the taxable year. Such tax shall be in lieu of the taxes imposed under sections 84-4902 and 84-4902.1. The gross volume of sales made in Montana during the taxable year shall be determined according to the provisions of article IV, sections 16 and 17 of the Multistate Tax Compact."

Determination of gross volume under multistate tax compact.

Effective beginning January 1, 1971.

Section 2. This act is effective for taxable years beginning on and after January 1, 1971.

Effective immediately.

Section 3. This act is effective on passage and approval.

Approved February 2, 1971.

CHAPTER NO. 16

An Act to Amend Section 84-1501, R.C.M. 1947, to Provide for an Alternative Corporation License Tax Based on Gross Sales as Required by the Multistate Tax Compact and to Add a Corrective Statutory Reference and Providing an Effective Date.

HeinOnline -- 1971 vol. I 364 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1501, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1501. **Corporation license tax—organizations exempt therefrom**—*alternative tax based on gross sales.* The term corporation includes associations, joint-stock companies, common law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agreements, declarations of trust. Every corporation, except as hereinafter provided and except as provided in section 40-2821 (5), R.C.M. 1947, organized and existing under the laws of the state of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said state of Montana, such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth; and every corporation, except as hereinafter provided, *and except as provided in section 40-2821 (5), R.C.M. 1947,* organized and existing under the laws of any other state or country, or the United States, and engaged in business in the state of Montana, shall annually pay for the exclusive use and benefit of the state of Montana a license fee for carrying on its business in the state of Montana of such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth.

In state corporations defined.

Annual license fee.

Out of state corporations.

License fee.

The percentage of net income to be paid under this section shall be six and one-quarter percent (6¼%) of all net income for the taxable period. The rate set forth in this act shall be effective for taxable years ending on or after February 28, 1969. For taxable years ending on or after February 28, 1971, the percentage of net income to be paid under this act shall be five and one-half percent (5½%) of all net income for the taxable period. Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than fifty dollars ($50).

Computation—percentage of net income.

Pursuant to the provisions of article III, section 2, of of the Multistate Tax Compact (Title 84, chapter 67, R.C.M.

HeinOnline -- 1971 vol. I 365 1971

Corporation only selling in state may elect to pay ½ of 1% of gross sales.

1947) every corporation deriving income from sources both within and without the state of Montana and required to file a return and whose only activity in Montana consists of making sales and which does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed one hundred thousand dollars ($100,000), may elect to pay a tax of one-half of one percent of gross sales made in Montana during the taxable year. Such tax shall be in lieu of the tax otherwise imposed under this section. The gross volume of sales made in Montana during the taxable year shall be determined according to the provisions of article IV, sections 16 and 17, of the Multistate Tax Compact.

Gross volume determined under multistate tax compact.

Exemptions. There shall not be taxed under this title any income received by any—

Labor—agriculture. (a). Labor, agricultural or horticultural organization;

Fraternal organizations. (b). Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive benefit of the members of fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

Cemeteries. (c). Cemetery company owned and operated exclusively for the benefit of its members;

Non-profit companies. (d). Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

Non-profit civic organizations. (e). Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

Non-profit civic leagues. (f). Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

Nonprofit clubs. (g). Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

HeinOnline -- 1971 vol. I 366 1971

(h). Farmers' or other mutual hail, cyclone or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses; Nonprofit mutual insurance companies, ditch, irrigation, telephone and like organizations.

(i). Any cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis; Electric coops.

(j). Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title; Nonprofit holding companies.

(k). In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function." Government public utilities income exempt.

Section 2. This act shall be effective for taxable years beginning on and after January 1, 1971. Effective beginning January 1, 1971.

Approved February 2, 1971.

CHAPTER NO. 17

An Act Relating to the Disposition, Sale, Lease, Mortgaging and Pledging of Electric and Telephone Cooperatives; and Amending Section 14-521, R.C.M., 1947, and providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 14-521, R.C.M., 1947, be, and the same is hereby amended to read as follows: Amending clause.

"14-521. **Disposition of property.** A cooperative may not sell, mortgage, lease or otherwise dispose of or encumber all or any substantial portion of its property unless such sale, mortgage, lease or other disposition or encumbrance is authorized at a duly held meeting of Two-thirds vote of members required to deal with cooperative property.

HeinOnline -- 1971 vol. I 367 1971

members thereof by the affirmative vote of not less than two-thirds (⅔) of all the members of the cooperative, and unless the notice of such proposed sale, mortgage, lease or other disposition or encumbrance shall have been contained in the notice of the meeting; provided, however, that notwithstanding anything herein contained, or any other provisions of law, the board of trustees of a cooperative, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust upon, or the pledging or encumbrancing of, any or all of the property, assets, rights, privileges, licenses, franchises and permits of the cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the board of trustees shall determine, to secure any indebtedness of the cooperative to the United States of America or any instrumentality or agency thereof *or to any other financing sources within the United States; provided, further, that the board may upon the authorization of a majority of those members of the cooperative voting at a meeting of the members thereof, sell, lease, or otherwise dispose of all or a substantial portion of its property to another cooperative or foreign corporation doing business in this state pursuant to the act under which the cooperative is incorporated."*

Notice of meeting.

Exceptions—authority of board of trustees to deal with property.

Subject to authorization of majority of voting members.

Effective immediately.

Section 2. This act shall be effective immediately upon passage and approval.

Approved February 9, 1971.

CHAPTER NO. 18

An Act to Allow Highway Patrol to Check Driver's Licenses, Amending Section 95-618, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 95-618, R.C.M., 1947, is amended to read as follows:

Definition.

"Temporary roadblock."

"95-618. **Roadblocks.** (a) Definition. For the purpose of this act, a "temporary roadblock" means any structure, device, or means used by the duly elected or

HeinOnline -- 1971 vol. I 368 1971

appointed law-enforcement officers of this state, and their deputies, for the purpose of controlling all traffic through a point on the highway whereby all vehicles may be slowed or stopped.

Authority to establish.

(b) Authority to Establish Roadblocks. The duly elected or appointed law enforcement officers of this state, and their deputies, are hereby authorized to establish, in their respective jurisdictions, or in other jurisdictions within the state, temporary roadblocks on the highways of this state for the purpose of identifying drivers, *checking for driver's licenses,* and apprehending persons wanted for violation of the laws of this state, or of any other state, or of the United States, who are using the highways of this state.

Purposes.

Minimum requirements.

(c) Minimum Requirements. For the purpose of warning and protecting the traveling public, the minimum requirements to be met by such officers establishing temporary roadblocks, if time and circumstances allow, are:

Minimum of 100 yards visibility.

1. The temporary roadblock must be established at a point on the highway clearly visible at a distance of not less than one hundred (100) yards, in either direction.

"Stop" signs readable at 50 yards.

2. At the point of the temporary roadblock, a sign shall be placed on the center line of the highway displaying the word "stop" in letters of sufficient size and luminosity to be readable at a distance of not less than fifty (50) yards, in both directions, either in daytime or darkness.

Flashing red light visible at 100 yards.

3. At the some point of the temporary roadblock, at least one (1) red light, which shall be a flashing or intermittent beam of light, must be placed at the side of the roadway clearly visible to the oncoming traffic, at a distance of not less than one hundred (100) yards.

Warning signs 200 yards.

4. At a distance of not less than two hundred (200) yards from the point of the temporary roadblock, warning signs must be placed at the side of the highway, containing any wording of sufficient size and luminosity, to warn the oncoming traffic that a "police stop" lies ahead.

Lights.

A burning beam light, flare, or a lantern must be placed near such signs for the purpose of attracting the attention of approaching drivers during hours of darkness.

Red flag.

A red flag may be used for the same purpose during daylight hours.

HeinOnline -- 1971 vol. I 369 1971

Authority preserved.

(d) Existing Law Preserved. Nothing in this act shall be deemed to limit, or encroach upon the existing authority of Montana law enforcement officers in the performance of their duties involving traffic control.

Penalties for failure to stop.

(e) Penalty. Any person who shall proceed or travel through a roadblock without subjecting himself to the traffic control so established shall be guilty of a misdemeanor, and shall be punished by a fine of not more than five hundred dollars ($500.00), or by imprisonment in the county jail for not more than six (6) months, or by both fine and imprisonment."

Approved February 9, 1971.

CHAPTER NO. 19

An Act to Amend Section 11-602, R.C.M., 1947, by Removing Therefrom Authority to Waive the Park Dedication Requirement, and Substitute Therefor the Right to Accept a Cash Donation in Lieu of Said Land Donation and Providing for Authority to Waive the Park Requirement for Planned Unit Developments, and Providing for Governing Body Approval of all Plats or Subdivisions and Requiring the Governing Body to Establish Regulations for Development of Plats of Subdivisions.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-602, R.C.M., 1947, is amended to read as follows:

Plat requirements.

"11-602. **What plat must contain.** The plat must show as follows:

Streets.

1. All streets, alleys, avenues, and highways, and the width thereof.

Parks.

2. All parks, squares, and all other grounds dedicated or reserved for public uses, with the boundaries and dimensions thereof.

Lots and blocks.

3. All lots and blocks with their boundaries, designating such lots and blocks by numbers, and giving the dimensions of every lot and block.

HeinOnline -- 1971 vol. I 370 1971

4. The angles of intersection of all boundary lines of the lots and blocks wherever the angle of intersection is not a right angle. Intersections.

5. The location of all stone or iron monuments set to establish street lines. Monuments.

6. The exterior boundaries of the piece of land so platted, giving such boundaries by true courses and distances. Exterior boundaries.

7. The location of all section corners or legal subdivision corners of sections within the limits of said plat. Section corners.

8. The adjoining block corners of all surveyed and adjoining additions, and the streets, alleys, avenues, and highways of such adjoining additions, for the purpose of showing how the new plat and survey conform to such adjoining addition of surveyed and platted ground. Adjoining block corners and streets.

9. For the purpose of promoting the public comfort, welfare, and safety, such plat and survey must show that at least one-ninth of the platted area, exclusive of streets, alleys, avenues, and highways, is forever dedicated to the public for parks and playgrounds; the one-half of such area so dedicated to the public for parks and playgrounds may be distributed in small plots of not less than one block in area through the different parts of the area platted; and the one-half shall be consecrated into larger parks on the outer edge of the area so platted. The board of county commissioners of the county, or the council of the city or town, is hereby authorized to suggest suitable places for such parks and playgrounds, and for good cause shown may make an order in the proceedings of such body (to be endorsed and certified on said plat), diminishing the amount of such area herein required to be dedicated as public parks and playgrounds to not less than one-twelfth thereof, exclusive of streets, alleys, avenues, and highways; *provided that where due to the size, topography, shape or location or other circumstances then and there existing, the dedication of land for park and playground purposes would be unsuitable, uneconomical, difficult to develop or maintain, or otherwise unusable for park and playground purposes, the governing body of the county, or the city or town, for good cause shown may make an order in the proceedings of such body to be endorsed and certified on the plat,* Dedication of parks and playgrounds required. County or city may suggest suitable areas. Diminished areas.

HeinOnline -- 1971 vol. I 371 1971

Cash donations in lieu of areas.

Uses of funds.

Fair market value.

Waiver.

Waiver of portions.

accepting a cash donation in lieu of land that would have been dedicated if a dedication were made, to be paid into the park fund, which shall be utilized for the purchase of additional land for parks and playgrounds, or for the initial development of parks or playgrounds as the needs of the general public welfare shall determine. The amount of the aforesaid cash donation in lieu of land dedication shall equal the fair market value of the land at the time of subdividing of the amount of land needed to meet the aforementioned park requirements; and provided further that if the proposed plat provides for the planned unit development with land set aside for park and recreational uses sufficient to meet the needs of the persons residing in and who will ultimately reside in said planned unit development, that the governing body may issue an order waiving the land dedication or cash donation requirements and may accept said plat for filing, and provided further that if a tract or tracts of land are being developed by the same ownership as a part of an overall plan, and part of said tract or tracts have been subdivided and sufficient park lands have been dedicated to the public from the area that has been subdivided to meet the requirements of this section for the entire tract or tracts being developed, the governing body may issue an order waiving the land dedication or cash donation requirements for any of said portion or portions of said tract or tracts thereafter subdivided.

Approval required.

Duty to adopt regulations for land developments.

10. For the purpose of promoting the public comfort, welfare, and safety, the subdivider must obtain the approval of the board of county commissioners or the governing body of any city or town within the limits of which said tracts or plat of land are contained, and it is the duty of said board of county commissioners, or the governing body of said city or town, and they shall adopt regulations to provide for the harmonious development of the region and its environs, for the coordination of roads within the subdivided land with other existing or planned roads or with the state or regional plan, or with the plans of municipalities in or near the region, for adequate open spaces for travel, light, air and recreation; for the conservation of or provision of adequate transportation, water, drainage, and sanitary facilities; for the avoidance of population congestion and for the avoidance of scattered subdivision of land as would involve danger or injury to

HeinOnline -- 1971 vol. I 372 1971

health, safety or welfare by reason of the lack of water supply, drainage, transportation or other public services or would necessitate an excessive expenditure of public funds for the supply of such services; and provided further that such regulations may include requirements as to the extent to which, and the manner in which roads shall be created and improved and water and sewer and other utility mains, piping connections or other facilities to be installed as condition precedent to the approval of a plat. And provided further that in the event that a proposed subdivision or plat fails to meet the requirements of said regulations that approval of the plat shall be denied until such time as it conforms with said regulations."

Regulation of roads and utilies.

Denial of nonconforming plat.

Section 2. The governing body of any city, town or county which has formed a planning board and adopted a comprehensive plan and subdivision regulations pursuant to title 11, chapter 38, R.C.M., 1947, shall seek the advice of the appropriate planning board in all matters pertaining to the approval or disapproval of plats or subdivisions.

Use of planning boards.

Approved February 9, 1971.

CHAPTER NO. 20

An Act to Amend Section 46-2331, R.C.M. 1947, Relating to Fees Which may be Imposed by the State Grass Conservation Commission Against Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 46-2331, R.C.M. 1947, is amended to read as follows:

Amending clause.

"46-2331. **Fees may be imposed by commission against districts.** The state grass conservation commission shall have the authority and right to impose such fees against the several state grazing districts of the state of Montana and in an amount not in excess of ten cents (10¢) per animal unit based upon the number of animal units per year for which the district grants permits, to defray any or all expenses created by the state grass conservation commission. *These fees* shall be held in the earmarked revenue fund, to be expended by order and direction of

Grazing fees imposed.

10c per animal unit.

Use of fees.

HeinOnline -- 1971 vol. I 373 1971

Failure to pay.

the state grass conservation commission for the administration of the commission. If any state district fails or refuses to pay such fee or fees on or before the first day of *October* of each year, and after such district shall have been provided with a full report from the commission of all monies collected and expended by it for its fiscal year next preceding that date, the commission shall have authority to compel and levy, collection and payment by writ of mandate or other appropriate remedy against said state district."

Writ of mandate.

Approved February 9, 1971.

CHAPTER NO. 21

An Act to Revise the Water Pollution Control Act by Placing Administration of the Act with the Department of Health Under Policy Guidance from the Board of Health; Redefining the Meaning of Pollution; Broadening the Activities Under Which a Permit must be Gained Under Section 69-4806, R.C.M. 1947; Defining the Duties of the Board of Health and Department of Health; Including as a Member of the State Water Pollution Advisory Council, the Commissioner of Agriculture, deleting Representative of Agriculture, Adding a Livestock Feeder, a Representative from Labor, a Supervisor of a Soil and Water Conservation District, a Representative of an Organization Concerned with Water Recreation and a Representative of an Organization Concerned with Fishing for Sport; Changing the Name of the State Water Pollution Control Council to the State Water Pollution Advisory Council and Redefining its Function; Providing for a Director of Water Pollution Control; Enacting a New Hearing and Appeals Procedure; Adopting a New Emergencies Procedure; Amending Sections 69-4801, 69-4802, 69-4804, 69-4805, 69-4806, 69-4810, 69-4811, 69-4812, 69-4813, and 69-4814, R.C.M. 1947, and Repealing Sections 69-4803, 69-4807, 69-4808, 69-4809, 69-4815, 69-4816, 69-4817, 69-4818 and 69-4819, R.C.M. 1947.

It is the intent of the Montana Legislative Assembly that all provisions of this act be codified in Title 69, Chapter 48, R.C.M. 1947.

HeinOnline -- 1971 vol. I 374 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 69-4801, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-4801. **Public policy of the state.** (1) It is the public policy of this state to: Public policy declared.

(a) conserve water by protecting, maintaining, and improving the quality and potability of water for public water supplies, wildlife, fish and aquatic life, agriculture, industry, recreation, and other beneficial uses; Water conservation.

(b) provide a comprehensive program for the prevention, abatement, and control of water pollution. Program to control pollution.

(2) It is not necessary that wastes be treated to a purer condition than the natural condition of the receiving stream. *"Natural" refers to conditions or material present from runoff or percolation over which man has no control or from developed land where all reasonable land, soil and water conservation practices have been applied. Conditions resulting from dams at the effective date of this act are "natural".* Condition of wastes. Natural condition of receiving stream defined.

Section 2. Section 69-4802, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-4802. **Definitions.** As used in this chapter, unless the context clearly indicates otherwise: Definitions.

(1) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings including discharge from human beings or animals together with ground water infiltration and surface water present. "Sewage."

(2) "Industrial waste" means any waste substance from the process of business or industry, or from the development of any natural resource together with any sewage that may be present; "Industrial waste."

(3) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, tar, chemicals, *dead animals, sediment,* and all other substances that may pollute state waters; "Other wastes."

(4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes or other wastes creating a hazard to human health; "Contamination."

HeinOnline -- 1971 vol. I 375 1971

"Pollution." (5) *"Pollution" means such contamination, or other alteration of the physical, chemical or biological properties,*

Water quality standards. *of any state waters, as exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any state water as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, or to livestock, wild animals, birds, fish or other wildlife, provided, however, that any discharge which is permitted by Montana water quality standards is not "pollution" for the purposes of this chapter.*

"Sewerage system." (6) "Sewerage system" means any device for collecting or conducting sewage, industrial wastes or other wastes to an ultimate disposal point;

"Treatment works." (7) "Treatment works" means any works installed for treating or holding sewage, industrial wastes or other wastes;

"Disposal system." (8) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewerage systems and treatment works;

"State waters." (9) "State waters" means any body of water, irrigation system, or drainage system either surface or underground; *this section shall not apply to irrigation waters where the waters are used up within the irrigation system and said waters are not returned to any other state waters;*

"Person." (10) "Person" means the state, any political subdivision of the state, institution, firm, corporation, partnership, or individual or other entity;

"Council." (11) "Council" means the state water pollution *advisory* council created by this act;

"Board." *(12) "Board" means the state board of health;*

"Department." *(13) "Department" means the state department of health;*

"Executive officer." *(14) "Executive officer" means the chief administrative officer of the state department of health;*

"Director." *(15) "Director" means the director of water pollution control, a position created by this act;*

HeinOnline -- 1971 vol. I 376 1971

(16) "Local department of health" means the staff, including any health officers, employed by a county, city, city-county, or district board of health." "Local department of health."

Section 3. Section 69-4804, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-4804. **Chapter applicable to drainage or seepage from artifical bodies of water privately owned.** This chapter *applies* to drainage or seepage from *all sources including that from* artificial, privately owned *ponds or lagoons if such drainage or seepage may reach other state waters in a condition which may pollute the other state waters."* Drainage or seepage from all sources.

Section 4. Section 69-4805, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-4805. Administration of chapter. *Except as otherwise provided, the department, acting under the supervision of the board as to matters of policy, is responsible for administration of the provisions of this chapter.* Administration.

The executive officer shall appoint a director of water pollution control to perform the duties and powers conferred upon the department by this act. The director shall meet requirements established by the board. The director shall have a minimum of five (5) years of responsible experience in water pollution control or aquatic ecology programs. His salary shall be set in accord with other members of the staff with the same degree of responsibility and training. He will be responsible for the administration of the water pollution control act within the limitations of funds and personnel assigned. Appointment of director. Qualifications. Salary. Responsibilities.

The executive officer shall, in the absence of a director of water pollution control, assign another member of the staff to perform the duties and exercise the powers of a director. Acting director.

The department may use personnel of the state and local departments of health as necessary to administer the provisions of this act." Use of personnel.

Section 5. Section 69-4806, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-4806. **Pollution unlawful—permits.** It is unlawful to:

HeinOnline -- 1971 vol. I 377 1971

Pollution unlawful. (1) cause pollution as defined in section 69-4802 (5), *R.C.M. 1947, of* any state waters or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any state waters;

Permit required. (2) carry on any of the following activities without a current permit from the department;

Disposal system. (a) *construct, modify, or* operate a disposal system which discharges to *any* state waters; *or*

Sewage outlets. (b) construct or *use any outlet for the discharge of sewage, industrial wastes, or other wastes to any state waters; or*

Violation of limitations. *(3) violate any limitation imposed by a current permit."*

Duties of board. Section 6. (1) The board shall:

Classification of waters. (a) establish and modify the classification of all waters in accordance with their present and future most beneficial uses;

Standards of purity. (b) formulate standards of water purity and classification of water according to its most beneficial uses, giving consideration to the economics of waste treatment and prevention;

Review at least every 3 years. (c) review from time to time, at intervals of not more than three years, established classifications of waters and standards of water purity and classification, provided that

Prior rules deemed adopted by board. (1) such classifications, standards, and rules as have been adopted by the state water pollution control council under section 133, chapter 197 of the laws of 1967 shall be deemed, without necessity of a hearing, to have been initially adopted by the board.

Board may not lower quality standards. (2) in revising classifications or standards or in adopting new classifications or standards the board may not so formulate standards of water purity or classify any state water as to lower any water quality standard applicable to any state water below the level applicable under the classifications and standards adopted by the state water pollution control council under section 133, chapter 197 of the laws of 1967.

High quality shall be maintained. (3) the board shall require that any state waters whose existing quality is better than the established

HeinOnline -- 1971 vol. I 378 1971

standards as of the date on which such standards become effective be maintained at that high quality unless it has been affirmatively demonstrated to the board that a change is justifiable as a result of necessary economic or social development and will not preclude present and anticipated use of such waters, and

Justifiable change.

(4) the board shall require any industrial, public, or private project or development, which would constitute a new source of pollution or an increase source of pollution to high quality waters, referred to in (3) immediately above, to provide the degree of waste treatment necessary to maintain that existing high water quality;

Degree of waste treatment required.

(d) advise, consult, and cooperate with other states, other state and federal agencies, affected groups, political subdivisions, and industries in the formulation of a comprehensive plan to prevent and control pollution;

Cooperation with other agencies and groups.

(e) make rules governing application for permits to discharge sewage, industrial wastes, or other wastes into state waters including rules requiring the filing of plans and specifications relating to the construction, modification, or operation of disposal systems,

Rules governing permits.

(f) make rules governing the issuance, denial, modification, or revocation of permits, provided, however, that:

(1) the rules shall allow the issuance or continuance of a permit only if the department finds that operation consistent with the limitations of the permit will not result in pollution of any state waters, except that

Operation shall not result in pollution.

(2) the rules may allow the issuance of a temporary permit under which pollution may result, for a period no longer than three years and subject to no extension, if the department finds that the issuance of such a permit is proper for obtaining compliance with the applicable standards, that

Temporary permits.

(3) the rules shall provide that the department may revoke any permit if the department finds that the holder of the permit has violated its terms, unless the department also finds that the violation was accidental and unforeseeable and that the holder of the permit corrected the condition resulting in the violation as soon as was reasonably possible; and that

Revocation.

HeinOnline -- 1971 vol. I 379 1971

New sources—treatment prior to permit.

(4) any person introducing a new source or increased source of sewage, industrial waste, or other wastes as defined in section 69-4802 (1), (2) and (3), R.C.M. 1947, to waters and tributaries of waters classified as A-open-D-1 or higher by the board shall be required to install and maintain the highest and best degree of treatment works necessary to maintain adequately said classification, as defined in section 69-4802 (7), R.C.M. 1947, prior to the issuance of a permit by the department;

Hearings.

(g) hold any hearings necessary for the proper administration of this chapter;

Rules for administration.

(h) make rules for the administration of this chapter; and

Court actions.

(i) bring actions in court for the enforcement of this chapter.

(2) The board may:

Loans and grants.

(a) accept loans and grants from the federal government and from other sources to carry out the provisions of this chapter; and

Minimum requirements for waste treatment.

(b) establish minimum requirements for the treatment of wastes.

Section 7. (1) The department shall:

Dealing with permits.

(a) issue, suspend, revoke, modify, or deny permits to discharge sewage, industrial wastes, or other wastes to state waters, consistently with rules made by the board;

Plans.

(b) examine and approve or disapprove plans and other information needed to determine whether a permit should be issued or suggest changes in plans as a condition to the issuance of a permit;

Limitations in permits.

(c) clearly specify in any permit any limitations imposed as to the volume, strength, and other significant characteristics of the waste to be discharged;

Information.

(d) collect and furnish information relating to the prevention and control of water pollution; and

Research.

(e) conduct or encourage necessary research and demonstrations concerning water pollution.

HeinOnline -- 1971 vol. I 380 1971

(f) issue orders to any person to clean up any material which he or his employee, agent, or subcontractor has accidentally or purposely dumped, spilled, or otherwise deposited in or near state waters and which may pollute them. Orders to clean up.

(2) The department may:

(a) through its authorized representatives, enter upon any private or public property at reasonable times to investigate conditions relating to pollution of state waters; and Right of entry.

(b) issue, modify, or revoke orders for the abatement of pollution. Orders for abatement.

Section 8. Section 69-4810, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-4810. **State water pollution** *advisory* **council—creation—members, appointment and term of office.** There is a state water pollution *advisory* council whose members are: Advisory council membership.

(1) the executive officer of the state department of health;

(2) the state fish and game director;

(3) the director of the *Montana water resources board;*

(4) the commissioner of agriculture;

(5) eight (8) members appointed by the governor for terms of four (4) years as follows:

(a) a representative of industry concerned with the disposal of inorganic waste;

(b) a representative of industry concerned with the disposal of organic waste;

(c) a *livestock feeder;*

(d) a representative of municipal government;

(e) a representative of an organization concerned with fishing for sport;

(f) a representative from labor;

(g) a supervisor of a soil and water conservation district;

HeinOnline -- 1971 vol. I 381 1971

(h) a representative of an organization concerned with water recreation."

Amending clause.

Section 9. Section 69-4811, R.C.M. 1947, is amended to read as follows:

Terms of office.

Vacancies.

"69-4811. **State water pollution** *advisory* **council—vacancy in office, filling—compensation of members.** Terms of council members holding office on the effective date of this act shall not be affected. An appointment to an expired term shall be for four (4) years. An appointment to an unexpired term shall be for the remainder of the term. The *eight (8)* appointed members shall receive twenty dollars ($20) per day plus actual and necessary expenses incurred in performing their duties. Expenses shall be paid by the department from funds appropriated and allocated to water pollution control."

$20.00 per day plus expenses. Source of funds.

Amending clause.

Section 10. Section 69-4812, R.C.M. 1947, is amended to read as follows:

Chairman.

Secretary.

"69-4812. **State water pollution** *advisory* **council—officers—meetings—quorum—designating of deputy by member.** (1) The council shall select a chairman from among its members. The executive officer shall designate a member of the staff of the department *of health* to act as secretary to the council. The secretary shall keep records of all actions taken by the council.

Meetings.

Quorum.

(2) It shall hold at least two (2) regular meetings each calendar year. Special meetings shall be held at the call of the chairman or upon written request of two (2) or more members. A majority of the members is a quorum.

Alternates.

(3) Each member may, by filing with the secretary, designate a deputy or alternate to perform his duties."

Amending clause.

Section 11. Section 69-4813, R.C.M. 1947, is amended to read as follows:

Council recommendations to board.

"69-4813. **Powers and duties of the council.** The council *may by majority report, minority report, or report of one or more members of the council, make recommendations to the board concerning any matters relating to the administration of this act."*

Amending clause.

Section 12. Section 69-4814, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 382 1971

"69-4814. **Hearings by** *board*—**notice.** Before streams are classified or standards established or modified, *or rules made, revoked or modified,* the *board* shall hold a public hearing. Notice of the hearing specifying the waters concerned and the classification, standards or modification of them *and any rules proposed to be made, revoked or modified* shall be published at least once a week for three (3) consecutive weeks in a *daily* newspaper of general circulation in the area affected. Notice shall also be mailed directly to persons the *board* believes may be affected by the *proposed action. The council shall be given not less than thirty (30) days prior to first publication to comment on the proposed action.*

Board shall hold public hearings.

Publication of notice.

Mailing of notice.

Council has 30 days to comment.

At a hearing held under this section, the board shall give all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. The board may make rules for the orderly conduct of the hearing but need not require compliance with the rules of evidence or procedure applicable to hearings held under section 13 of this act."

Reasonable opportunity to be heard.

Rules for conduct of hearings.

Section 13. (1) Whenever the department has reason to believe that a violation of this chapter or any rule made under it has occurred, it shall cause written notice to be served personally or by mail upon the alleged violator or his agent. The notice shall state the provision alleged to be violated, the facts alleged to constitute the violation, the nature of any corrective action which the department proposed to require, and the time within which such action is to be taken. For the purposes of this chapter, service by mail shall be deemed complete on the day of mailing.

Notice of alleged violations.

Service by mail.

(2) In a notice given under part (1) of this section, the department may require the alleged violator to appear before the board for a public hearing and to answer the charges made against him. Such hearing shall be held no sooner than fifteen (15) days after service of the notice, except that the board may set an earlier date for hearing if it is requested to do so by the alleged violator. The board may set a later date for hearing at the request of the alleged violator if the alleged violator shows good cause for delay.

Notice to appear.

Hearings.

(3) If the department does not require an alleged violator to appear before the board for a public hearing,

Violator may request hearing.

HeinOnline -- 1971 vol. I 383 1971

he may request the board to conduct such a hearing. His request shall be in writing and shall be filed with the executive officer no later than thirty (30) days after service of a notice under subsection (1) of this section. If such a request is filed, a hearing shall be held within a reasonable time.

Hearings shall be public.

(4) If a hearing is held pursuant to the provisions of this section, it shall be public and shall, if the board deems it practicable, be held in any county in which the violation is alleged to have occurred. The board shall permit all parties to respond to the notice served under subsection (1), to present evidence and argument on all issues, and to conduct cross-examination required for full disclosure of the facts. The board shall keep a stenographic record of the hearing and at least one (1) copy of any written exhibits put in evidence.

Stenographic record.

Oaths, examination of witnesses, subpoenas.

Witness fees and mileage.

District court may order attendance.

Contempt.

(5) A representative of the board may administer oaths, examine witnesses, and issue notices of the hearing including subpoenas requiring the testimony of witnesses and the production of evidence. Witnesses shall receive the same fees and mileage as in civil actions. In case of failure to obey a notice of hearing or subpoena, the district court where the hearing is held has jurisdiction upon request by the board to issue an order requiring a person to appear and testify or produce evidence, and failure to obey shall be punished as contempt of district court.

Board may issue orders.

Statement of finding.

Petition for rehearing.

(6) After a hearing or on failure of an alleged violator to make a timely request for a hearing, the board may issue an appropriate order for the prevention, abatement, or control of pollution. The order shall be accompanied by a statement of the board's findings, reasons, and conclusions upon all material issues of fact, law, or discretion. It shall state the date or dates by which any violation shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the pollution. The alleged violator may petition the board for a rehearing, on the basis of new evidence, which petition the board may grant for good cause shown.

Actions for penalties.

(7) In addition to or instead of issuing an order, the board may initiate appropriate action for recovery of a penalty pursuant to section 17 of this act.

Notice of denial of permit.

Section 14. (1) If the department denies an application for a permit or modifies a permit, the department

HeinOnline -- 1971 vol. I 384 1971

shall give written notice of its action to the applicant or holder, and he may request a hearing before the board, in the manner stated in section 13 of this act, for the purpose of petitioning the board to reverse or modify the action of the department. Such hearing shall be held within thirty (30) days after receipt of written request. After the hearing, the board shall affirm, modify, or reverse the action of the department. Modification of a permit shall be effective thirty (30) days after receipt of notice by the holder, unless the department specifies a later date, if the holder does not request a hearing before the board. If the holder does request a hearing before the board, no order modifying his permit shall be effective until twenty (20) days after he has received notice of the action of the board.

Hearing within 30 days after request.

Board action.

Effective dates.

(2) If the department suspends or revokes a permit because it has reason to believe that the holder has violated this chapter, the department may specify that the suspension or revocation is effective immediately, if the department finds that the violation is likely to continue and will cause pollution the harmful effects of which will not be remedied immediately on the cessation of the violation. Upon petition by the holder of the permit, the board shall grant the holder a hearing, to be conducted in the manner specified in section 13 of this act and shall issue an order affirming, modifying, or reversing the action of the department. The order of the board shall be effective immediately, unless the board directs otherwise.

Immediate suspension or revocation.

Hearing.

Order.

Section 15. (1) Any person who has exhausted all administrative remedies available before the department and board and who is aggrieved by an order of the board may, within twenty (20) days after the date of the order, petition for review by the district court of the county in which the alleged source of pollution is located.

Petition for review by district court.

(2) An action for review shall be initiated by delivering a copy of a written petition for review to the executive officer of the board, and by filing the original of the petition with the clerk of the court in which review is sought. The petition shall specify the order or orders review of which is sought and shall state the grounds of the petition. When the petition is filed with the clerk of

Service on board.

Grounds.

HeinOnline -- 1971 vol. I 385 1971

Jurisdiction. the court, the district court has jurisdiction of the action. As soon as possible in the ordinary course of business and within thirty (30) days after receipt of the petition by

Certified record. the board, the board shall certify to the district court the entire record and proceedings, including all evidence received in the form of documents and other exhibits and a transcript of such testimony taken by the board as any party shall request.

Intervention. (3) Any person interested in the order may intervene, in the manner provided by the Rules of Civil Procedure, if he shows good cause. An intervenor is a party for the purposes of this chapter.

Counsel for board. (4) The attorney general shall represent the board if requested, or the board may appoint special counsel for the proceedings, subject to the approval of the attorney general.

No bond for costs required. (5) Neither the state nor the board need give a bond or make a deposit for costs upon an action for review by a district court or upon any subsequent appeal.

Review based on record. (6) The review by the district court shall be based solely on the record of the hearing before the board. That record shall include the notice given pursuant to section 13 (1) of this act, any testimony transcribed pursuant to subsection (2) of this section, any exhibits filed with the board, any motions or pleadings which were submitted to the board and any rulings made by the board with respect to them, the order under review, the statement of the board accompanying the order, and any relevant document filed in the proceeding. To the

Determination by court. extent necessary in respect to the issues, the court shall determine whether the order of the board was (a) constitutional, (b) within the statutory jurisdiction and powers of the board, (c) issued pursuant to procedure required by law, (d) supported by substantial evidence on the whole record or such portions of the record as may be cited by the parties, and (e) within the reasonable discretion of the board. The court shall then as appro-

Remand to board. priate, affirm, modify, or reverse the order of the board or remand the case to the board for further proceedings.

Injunction. The court may, if appropriate, issue an injunction directing compliance with the order of the board as affirmed or modified.

HeinOnline -- 1971 vol. I 386 1971

(7) Any party may appeal from the decision of the district court to the supreme court of Montana in the manner provided for civil cases. Appeal to supreme court.

(8) The initiation of an action for review or the taking of an appeal shall not stay the effectiveness of any order of the board, unless the court finds that there is probable cause to believe Action for review shall not stay orders. Exceptions.

1. that refusal to grant a stay will cause serious harm to the affected party, and

2. that any violation found by the board

(a) will not continue, or

(b) if it does continue, any harmful effects on state waters will be remedied immediately on the cessation of the violation.

If the court does not stay the effectiveness of an order of the board, it may enforce compliance with that order by issuing a temporary restraining order or an injunction at the request of the board. Court may issue restraining order or injunction.

Section 16. **Confidentiality of records.** Any information concerning sources of pollution which is furnished to the board or department or which is obtained by either of them is a matter of public record and open to public use. However, any information unique to the owner or operator of a source of pollution which would, if disclosed, tend to weaken his competitive position shall be confidential unless he expressly agrees to its publication or availability to the general public or unless such information is introduced as evidence in a hearing before the board. Any information not intended to be public when submitted to the board or department shall be submitted in writing and clearly marked as confidential. The data describing physical and chemical characteristics of a waste discharged to state waters shall not be considered confidential; except that the party supplying the information to the board may apply to the board for confidential status for the information so supplied, and the board shall determine that the disclosure of said information is in the public interest prior to the disclosure to the public of said information. The board may use any information in compiling or publishing analyses or summaries relating to water pollution, Public record. Confidential information. In writing. Application for confidential status. Board use of information.

HeinOnline -- 1971 vol. I 387 1971

if such analyses or summaries do not identify any owner or operator of a source of pollution or reveal any information which is otherwise made confidential by this section.

Penalties for violation.

Section 17. (1) Any person who violates any provision of this chapter other than section 16 of this act, or any rule or order issued pursuant to it is guilty of an offense and subject to a fine not to exceed one thousand dollars ($1,000). Each day of violation constitutes a separate offense.

Penalties for violation of section 16.

(2) Any person who willfully violates section 16 of this act is guilty of an offense and subject to a fine not to exceed one thousand dollars ($1,000).

Enforcement proceedings in name of state.

(3) Action pursuant to section (1) of this section does not bar enforcement of this chapter or of rules or orders issued pursuant to it by injunction or other appropriate remedy. The board shall institute and maintain any and all such enforcement proceedings in the name of the state.

Purpose to provide remedies for control of water pollution.

(4) A purpose of this chapter is to provide additional and cumulative remedies to prevent, abate and control the pollution of state waters. This chapter shall not be construed to abridge or alter rights of action or remedies in equity or under the common law or statutory law, criminal or civil, nor shall any provision of this chapter or any act done by virtue of it be construed as estopping the state or any municipality or person as owners of water rights or otherwise in the exercise of their rights in equity or under the common law or statutory law to suppress nuisances or to abate pollution.

Deposit of fines.

(5) All fines collected shall be deposited to the credit of the department, to be used to alleviate pollution for which no person subject to action by the department or board is responsible.

Section 18. **Emergencies.** Notwithstanding any other provisions of this chapter, if the department finds that a person is committing or is about to commit an act in violation of this chapter or an order or rule issued under it which, if it occurs or continues, will cause substantial pollution the harmful effects of which will not be remedied immediately after the commission or cessation of

HeinOnline -- 1971 vol. I 388 1971

the act, the department shall order such person to stop, avoid, or moderate the act so that the substantial injury will not occur. The order shall be effective immediately upon receipt by the person to whom it is directed, unless the department provides otherwise. Notice of the order shall conform to the requirements of section 13 (1) of this act so far as practicable; the notice shall indicate that the order is an emergency order. Upon issuing such an order, the department shall fix a place and time for a hearing before the board, not later than five (5) days thereafter, unless the person to whom the order is directed shall request a later time. The department may deny a request for a later time if it finds that the person to whom the order is directed is not complying with the order. The hearing shall be conducted in the manner specified in section 13, subsections (4), (5), and (6) of this act. As soon as practicable after the hearing, the board shall affirm, modify, or set aside the order of the department. The order of the board shall be accompanied by the statement specified in section 13 (6) of this act. An action for review of the order of the board may be initiated in the manner specified in section 15 of this act. The initiation of such an action or taking of an appeal shall not stay the effectiveness of the order, unless the court shall find that the board did not have reasonable cause to issue an order under this section.

Emergency control.

Notice.

Hearing.

Board orders.

Statement of findings.
Review.

Order not stayed.

Section 19. **Injunctions.** The board may bring an action for an injunction against the continuation of any alleged violation which has been the basis of suspension or revocation of a permit by the department or against any person who fails to comply with an emergency order issued by the department by virtue of section 18 of this act or any final order of the board. The court to which the board applies for an injunction may issue a temporary injunction, if it finds that there is reasonable cause to believe that the allegations of the board are true, and it may issue a temporary restraining order pending action on the temporary injunction.

Action for injunction.

Temporary injunction.

Section 20. **Action by other parties.** Any person, association, corporation or agency of the state or federal government may apply to the board protesting any violation of this chapter. The board shall thereupon direct the department to investigate the alleged violation. The department shall make the investigation and make a written

Other parties may protest to board.

Investigation.

Written report.

HeinOnline -- 1971 vol. I 389 1971

report to the board and to the person, association, corporation or agency which made the protest.

Government agencies shall cooperate with board.

Section 21. **Cooperation with the council, board, and department.** The council, board, and department may require the use of records of all state agencies and may seek the assistance of such agencies. State, county, and municipal officers and employees, including sanitarians and other employees of local department of health, shall cooperate with the council, board and department, in furthering the purposes of this chapter, so far as is practicable and consistent with their other duties.

Repealing clause.

Section 22. Sections 69-4803, 69-4807, 69-4808, 69-4809, 69-4815, 69-4816, 69-4817, 69-4818, and 69-4819, R.C.M. 1947, are repealed.

Severability clause.

Section 23. It is the intent of the legislative assembly that, if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved February 10, 1971.

CHAPTER NO. 22

An Act Amending Sections 81-412, 81-419, 81-426, 81-428, 81-502, 81-606, 81-613, 81-615, 81-915, 81-1113, 81-1702.1 and 81-1703, R.C.M. 1947, to Eliminate Fees Established by Statute and to Provide General Authority for the Commissioner of Lands and Investments to Establish Those Fees With the Approval of the Board of Land Commissioners and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Statutory fees deleted. Commissioner authorized to establish fees.

Section 1. In order to insure that fees which are credited to the general fund and which are charged and collected under Title 81, R.C.M. 1947, reflect the current cost of state government, those fees established by statute are deleted and the commissioner of lands and investments is authorized to establish those fees with the approval of the board of land commissioners.

HeinOnline -- 1971 vol. I 390 1971

Section 2. Section 81-412, R.C.M. 1947, is amended to read as follows: Amending clause.

"81-412. **Rental, when due—cancellation for nonpayment.** The rental for the first year of the lease and *such fee as may be prescribed by the commissioner of state lands and investments with the approval of the state board of land commissioners* for issuing the lease shall be paid at or before the time of the execution of the lease; provided, however, that in the case of all leases which take effect on and after October 1 and before the expiration of the coming February, both the rental for the fractional year and for the next full year beginning March 1, shall be paid and collected at the time of issuing the lease; provided, further, when the government of the United States is the lessee of state lands for grazing purposes, the rental shall be payable at the end of each year of said lease. The rental for each succeeding year on leases hereafter issued, with the exception of leases wherein the government of the United States is the lessee, shall become due and payable to the commissioner of state lands and investments on December 15 next preceding the rental year to which the rental applies and if not paid on or before February 1 next following, this nonpayment shall have the effect of cancelling the lease from and after February 28 of that year. The commissioner shall notify the lessee by letter addressed to the post-office address given in the lease of such cancellation, and the land shall then be open for lease to other applicants."

Payment of rental and fees.

Exceptions where federal government is lessee.

Effect of nonpayment.

Notice to lessee.

Section 3. Section 81-419, R.C.M. 1947, is amended to read as follows: Amending clause.

"81-419. **Assignment of leases — preferences — fee.** Leases to state lands may be assigned on blanks provided for that purpose by the state board of land commissioners, but no such assignment shall be binding on the state unless the assignment is filed with the commissioner, approved by him and payment made of *such fee as may be prescribed by the commissioner of state lands and investments with the approval of the state board of land commissioners.* Preference shall always be given to the applicant who wants the land for his own individual use so that the full advantage coming from the leasing and use of such lands may reach those who actually till the soil, and so that they shall not be compelled to pay a higher rental than that due the state. If a lessee subleases state lands on terms

Leases to state lands may be assigned.

Approval.

Payment of fees.

Preferences.

Individual use.

HeinOnline -- 1971 vol. I 391 1971

Lease may be cancelled.

less advantageous to the sublessee than the terms given by the state, his lease shall be subject to cancellation by the state board of land commissioners after hearing, duly held on the facts involved. In any case where state land is subleased by any lessee of state lands, such sublease shall be illegal unless a copy of the sublease accompanied by *such fee as may be prescribed by the commissioner of state lands and investments with the approval of the state board of land commissioners* has been filed with the state land office and approved by the commissioner."

Sublease shall be filed with state land office.

Amending clause.

Section 4. Section 81-426, R.C.M. 1947, is amended to read as follows:

Lease pledge agreement or mortgagee.

"81-426. **Filing with state required—fee.** The pledgee of such lease or the mortgagee of such leasehold interest shall, within thirty (30) days after receipt of said pledge agreement or mortgage, file the same, or a certified copy thereof, in the office of the state board of land commissioners, and shall pay to said board *such fee as may be prescribed by the commissioner of state lands and investments with the approval of the state board of land commissioners* for the filing thereof."

Filing with board of land commissioners.

Fees prescribed by commissioner.

Amending clause.

Section 5. Section 81-428, R.C.M. 1947, is amended to read as follows:

"81-428. **Proof of termination of lease or pledge to be filed—fee.** The lessee of any grazing or agricultural lease of or leasehold interest in state lands which has been pledged or mortgaged as herein provided shall, within thirty (30) days after payment of the indebtedness secured thereby, or within thirty (30) days after the pledge agreement has been terminated or the leasehold interest has been released from the mortgage, file with the state board of land commissioners due proof of said fact and pay to said board *such fee as may be prescribed by the commissioner of state lands and investments with the approval of the state board of land commissionres* for said filing."

Filing termination of lease agreement with board.

Fees prescribed by commissioner.

Amending clause.

Section 6. Section 81-502, R.C.M. 1947, is amended to read as follows:

Coal mining leases limited to 20 years.

"81-502. **Maximum term of lease—form—fee.** No coal mining lease shall be issued for a longer term than twenty (20) years, but the board may establish such rules and regulations for the renewal of a lease at the expiration

Renewal.

HeinOnline -- 1971 vol. I 392 1971

of the term as it may deem proper and necessary. The board shall prescribe the form of the lease; the fee for issuing the lease and approving the bond hereinafter provided shall be *such fee as may be prescribed by the commissioner of state lands and investments with the approval of the state board of land commissioners* payable to the commissioner."

Form of lease.

Fees prescribed by commissioner.

Section 7. Section 81-606, R.C.M. 1947, is amended to read as follows:

Amending clause.

"81-606. **Form of applications.** Forms of applications for leases under the provisions of this act shall be prepared by the state board of land commissioners, and each applicant for a mining lease shall execute an application in such form. At the time of the issuance of any mining lease, the mining lessee shall pay to the board *such fee as may be prescribed by the commissioner of state lands and investments with the approval of the state board of land commissioners.*"

Application forms for leases.

Fee prescribed by commissioner.

Section 8. Section 81-613, R.C.M. 1947, is amended to read as follows:

Amending clause.

"81-613. **Assignment of leases or permits.** In case of the assignment of a mining lease or a prospecting permit by the holder thereof, the mining lessee or permittee executing such assignment shall not be relieved of any responsibility for operations under such lease or prospecting permit until the financial and moral responsibility of the assignee shall have been passed upon and approved by the board, nor until there shall be deposited with the board:

Assignment of mining lease or permit.

Responsibility for operations.

Approval.

Deposit with board.

(a) Such assignment or an executed copy thereof;

(b) An instrument executed by the sureties upon any and all bonds then held by said board in connection with such mining lease or permit and then in force, consenting to such assignment and containing the agreement of such sureties to be bound by such bonds under such assignment, or new bonds conforming to all the requirements of section 81-607; and

(c) *Such fee as may be prescribed by the commissioner of state lands and investments with the approval of the state board of land commissioners.*"

Fees prescribed by commissioner.

Section 9. Section 81-615, R.C.M. 1947, is amended to read as follows:

Amending clause.

HeinOnline -- 1971 vol. I 393 1971

Outstanding leases and permits remain in force.

"81-615. **Prospecting permits.** All prospecting permits and all leasees outstanding and in good standing at the time of the passage of this act may continue in force until their expiration by their terms, and the rights of the respective permittees or lessees shall be governed by the laws in force when such permits were respectively issued.

Fees for prospecting permits.

Prospecting permits without lease may be hereafter issued by the board upon the payment of *such fees as may be prescribed by the commissioner of state lands and investments with the approval of the state board of land commissioners* at the time of the issuance of such permit and *such*

Further fees.

further fee as may be established by the commissioner of state lands and investments with the approval of the state board of land commissioners at the end of each year during the life thereof, and any such permit shall provide for due diligence in the work of prospecting during the life of

Limitations under permit.

such permit. Any such permit shall be limited to prospecting for metalliferous minerals and/or gems and no such permittee shall have the right to remove from any lands or mineral rights covered by such permit any metalliferous minerals or gems except such as may be necessary for the proper testing and sampling of such lands or mineral rights,

Application for lease.

and except as may be permitted by said board. During the life of any permit in force at the time of the passage of this act, or issued under the provisions of this section, the permittee may apply for a lease of the lands or mineral rights covered by such permit, and if a lease is granted the same shall be in the form and subject to all the terms and conditions specified in this act, as in the case of a

Preference right.

mining lease issued under this act. Such permittee shall have the preference right to a lease, upon such terms as the board shall deem just, subject to the terms of this act, and in any event said permittee shall have preference without competitive bidding, and upon the most favorable terms

40 acres.

permitted under this act, to forty (40) contiguous acres. If some other person shall make a better bid for a mining lease upon the land covered by such permit, and if the

Bidder awarded lease shall pay for prior work done.

board shall award a mining lease to such better bidder, the board shall also require such mining lessee to pay to the permittee, prior to the issuance of such lease, the full value of all the work the permittee shall have performed upon the land under his permit in connection with his prospecting and exploration work, and the permittee shall have the right to remove from such land, within thirty (30) days from the date the board shall give such permittee notice of

HeinOnline -- 1971 vol. I 394 1971

the issuance of such mining lease, or within such further time as the board, upon good cause shown, may allow, any machinery, equipment, improvements, and other property placed thereon by him."

Right to remove equipment.

Section 10. Section 81-915, R.C.M. 1947, is amended to read as follows:

Amending clause.

"81-915. **Terms of payment.** Every purchaser of state land shall pay on the day of sale such portion of the purchase price as he may desire but in no case less than ten per centum (10%) of the total sales price, and in case the balance on the purchase price is not an exact multiple of twenty-five dollars ($25), then he shall pay such additional sum as is necessary to reduce the balance to an even multiple of twenty-five dollars ($25); he shall also in all cases pay *such fee as may be prescribed by the commissioner of state lands and investments with the approval of the state board of land commissioners* for each certificate of purchase to be issued to him.

Purchaser of state land—payment of price.

Fees.

The balance of the purchase price shall draw interest at the rate of five per centum (5%) per annum, payable annually, and the balance of the purchase price itself shall be payable through a period of thirty-three (33) years on the amortization plan, which is hereby defined as being that plan under which part of the principal is required to be paid each time interest becomes due and payable, and under which this part payment on the principal increases at each succeeding installment in the same amount that the interest payment decreases so that the combined amount due on principal and interest on each due date remains the same until the loan or bond is paid in full; provided, however, that the amount of the last installment may vary from the other installments to the extent resulting from disregarding fractional cents in the previous installments; provided, however, that the balance of the purchase price on town and city lots shall be payable on the amortization plan through a period of twenty (20) years; and provided further that the board may at any time fix a shorter period than twenty (20) years for the payment of such balance on town and city lots, and different periods of time may be established for different towns and cities as the best interest of the state may appear to demand."

Balance of price 5% per annum.

33 year amortization.

Last installment may vary.

City lots.

20 year amortization.

Board may fix shorter period.

Section 11. Section 81-1113, R.C.M. 1947, is amended to read as follows:

Amending clause.

HeinOnline -- 1971 vol. I 395 1971

Commissioner authorized to collect fees.

"81-1113. **Fees.** The commissioner of state lands and investments is hereby authorized and empowered to charge and collect *such fees as may be prescribed by him and approved by the state board of land commissioners for the following:*

Issuing miner's prospecting permit.

Issuing any other permit.

Issuing any lease with or without bond.

Issuing any certificate of purchase or lieu certificate or converted certificate or purchase contract.

Approving and entering assignment of lease or certificate of purchase.

Deed for right of way easement or other easement.

Patent to any land sold.

Certified copy of any of the instruments above enumerated.

Making township plats showing the state lands therein and giving other information.

Certified copy of any other instrument than those above enumerated or of the records of his office.

Such other services by the commissioner not enumerated in this section."

Amending clause.

Section 12. Section 81-1702.1, R.C.M. 1947, is amended to read as follows:

Oil and gas leases.

81-1702.1. **Rentals—filing fee—contiguity.** The annual money rentals to be paid to the state for oil and gas leases hereafter made under the provisions of chapter 17 of Title 81, R.C.M. 1947, and acts amendatory thereto,

$1.00 per acre.

shall be one dollar ($1) for each acre of land leased, except that in addition to said sum of one dollar ($1) per

Additional first year rental.

acre, the rental for the first year of the lease shall also include any sum in excess of one dollar ($1) per acre offered and accepted for such first year's rental; provid-

Minimum $50.00 per annum.

ed, however, that such rental shall in no case be less than fifty dollars ($50) per annum.

Fees prescribed by commissioner.

Such filing fee as may be prescribed by the commissioner of state lands and investments and approved by the state board of land commissioners for each oil and gas lease is-

HeinOnline -- 1971 vol. I 396 1971

sued and a fee in the same amount for each assignment shall be paid to the commissioner of state lands and investments. Such filing fee and the first year's rental, shall be paid before the issue of the lease. The rentals for each subsequent year of the lease shall be due and payable thirty (30) days before the beginning of such subsequent year, and upon failure to make such payment such lease shall terminate.

Rentals due.
30 days.
Termination.

The lands shall be leased in as compact bodies as the form and areas of the tracts held by the state and offered for lease will permit. No lease shall embrace noncontiguous subdivisions of lands unless such subdivisions shall be within an area comprising not more than one (1) square mile.

Lands leased in compact bodies.
One square mile.

In all cases where an oil and gas lease hereafter issued shall be surrendered for cancellation before its expiration, relinquished to the state, or canceled through proceedings on the part of the state, no new lease on the lands under such lease shall be issued within thirty (30) days from the date of cancellation or relinquishing. This restriction shall not apply however in cases of bona fide assignment."

No new lease within 30 days.

Section 13. Section 81-1703, R.C.M. 1947, is amended to read as follows:

Amending clause.

"81-1703. **Rentals—filing fee—contiguity of land leased—cancellation and renewal of leases.** The minimum annual money rentals to be paid to the state for oil and gas leases under the provisions of this act shall be seventy-five cents (75¢) for each acre of land leased; provided, however, that such rental shall in no case be less than fifty dollars ($50) per annum.

Minimum rentals.
75 cents per acre.
$50.00 per annum.

Such filing fee as may be prescribed by the commissioner of state lands and investments and approved by the state board of land commissioners for each oil and gas lease issued and a fee in the same amount for each assignment shall be paid to the register of state lands. Such filing fee and the first year's rental shall be paid before the issue of the lease. The rentals for each subsequent year of the lease shall be due and payable thirty (30) days before the beginning of such subsequent year.

Fees prescribed by commissioner.
Rentals due.
30 days.

The lands shall be leased in as compact bodies as the form and areas of the tracts held by the state and offered for lease will permit. No lease shall embrace noncontiguous

Lands leased in compact bodies.

HeinOnline -- 1971 vol. I 397 1971

One square mile.

subdivisions of lands unless such subdivisions shall be within an area comprising not more than one square mile.

No new lease within 30 days.

In all cases where an oil and gas lease hereafter issued shall be surrendered for cancellation before its expiration, relinquished to the state, or canceled through proceedings on the part of the state, no new lease on the lands under such lease shall be issued within thirty (30) days from the date of cancellation or relinquishment. This restriction shall not apply however in case of bona fide assignment."

Effective immediately.

Section 14. This act is effective upon its passage and approval.

Approved February 10, 1971

CHAPTER NO. 23

An Act Subjecting State and National Banks to the Montana Corporation License Tax; and Repealing Section 84-1501.4, R.C.M. 1947; and Providing Effective Dates.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is added to Title 84, chapter 15, R.C.M. 1947, a new section numbered 84-1501.6 which reads as follows:

All banks subject to corporation license tax.

84-1501.6. **State and national banks subject to tax.** Effective with taxable years beginning on and after Jauary 1, 1971, every bank organized under the laws of the state of Montana or of any other state and every national bank organized under the laws of the United States are subject to the Montana corporation license tax provided for under Title 84, chapter 15, R.C.M. 1947.

Repealing clause.

Section 2. Section 84-1501.4, R.C.M. 1947, is repealed.

Effective dates.

Section 3. For the taxable year beginning on and after January 1, 1971. section 1 of this act is effective in accordance with Public Law 91-156, section 1 (12 U.S.C. 548 (5)). For taxable years beginning on and after January 1, 1972, section 1 of this act is effective in accordance with Public Law 91-156, section 2 (12 U.S.C. 548).

Approved February 16, 1971

HeinOnline -- 1971 vol. I 398 1971

CHAPTER NO. 24

An Act to Amend Section 46-2322, R.C.M. 1947, Providing Grazing Preferences Appurtenant to Dependent Commensurate Property.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 46-2322, R.C.M. 1947, is amended to read as follows: Amending clause.

"46-2322. **Grazing preferences appurtenant to dependent commensurate property and commensurate property and method of transferring preferences to other lands.** Grazing preferences shall run with and be appurtenant to the dependent commensurate and commensurate property upon which they are based. They shall not be subject to devise, bequest, attachment, execution, lease, sale, exchange, transfer, pledge, mortgage, or other process, or transaction, except as provided in this section or in the bylaws of a state district. Upon application by a permittee, the state district with the approval of the grass conservation commission may allow a preference based on ownership or control of dependent commensurate or commensurate property to be transferred to other property of sufficient commensurability, provided that in any transfer of preference from dependent commensurate or commensurate property controlled but not owned by applicant, the applicant must have had control and use of the dependent commensurate or commensurate property and the preference appurtenant thereto, for five (5) consecutive years and must have established and maintained the livestock operation upon which the dependency was established by use or priority immediately prior to the application for transfer. Provided further, that such transfer will not interfere with the stability of livestock operations or with proper range management and will not affect adversely the established local economy, and provided further, that no such transfer will be allowed without the written consent of the owner or owners and any encumbrances of the dependent commensurate or commensurate property from which the transfer is to be made and provided further, that such transfer shall not in any case become effective until approved by the grass conservation commission. The provision of the section shall not be construed to apply to trespass violations.

Grazing preferences made appurtenant to land.

Exemptions.

Application for transfer—approval.

Control and use for five consecutive years.

Limitations on transfers.

Written consent.

Approval.

HeinOnline -- 1971 vol. I 399 1971

Procedure.
Notice.
Publication.
Posting.
15 days.
Hearing.

When such application is presented to the board the secretary upon the direction of the board shall give notice thereof, setting forth in general said application and the time and place of hearing thereon as fixed by the board, and a copy of said notice shall be given or mailed to the applicant and shall be published for at least once a week for two successive weeks prior to such meeting in a newspaper published or generally circulated within the district, and said notice shall also be posted for at least two full weeks prior to such meeting in three (3) public places within said district, and the date of hearing must be at least fifteen (15) days from the first publication of said notice, and at such hearing the directors shall fully hear and determine such application and objections thereto if any.

Loss on transfer.

Upon the allowance of a transfer under this section, the property from which the transfer is made shall lose its grazing preference to the extent of the preference transferred.

Expenses.

All expenses involved under the application shall be borne by the applicant.

Attached preference changes with land.
Nonuse permit—fees.
Revocation.
Notice.
60 days.

When the land to which preference is attached shall change its control or ownership such preference shall change with the land, provided, that the person to which such control or ownership changes shall secure a nonuse permit or shall pay the usual grazing fees. If such person fails to secure such nonuse permit or refuses to pay such grazing fees, the preferences may be revoked by the state district. If any person controls but does not own land and does not secure a nonuse permit and refuses to pay grazing fees, the state district shall notify the owner of such land by registered mail that the preference attached to such land will be revoked unless such owners shall pay the usual grazing fees to the state district within sixty (60) days from the time of receipt of such notice. The state district may revoke such preference if the owner or mortgagor does not pay such fees or secure a nonuse permit.

Violation.
Notice.

If any permittee fails to pay grazing fees or assessments levied by the state district, or fails to obtain a nonuse permit or violates any of the rules and regulations of the state district, the state district may notify such permittee and owner of such land by registered mail that

HeinOnline -- 1971 vol. I 400 1971

the preference attached to such grazing land will be revoked unless such grazing fees or assessments are paid or such permittee ceases to violate the rules and regulations laid down by the district within sixty (60) days from the time of receipt of such notice. The state district may revoke such preference if the permittee or owner fails to pay such charges or make such compliance. Revocation. 60 days.

When a preference is revoked, it shall be detached from the dependent commensurate or commensurate property to which it was formerly appurtenant. The preference shall immediately shift to the state district. The state district may then allocate it to either dependent commensurate or commensurate property in the manner provided by its bylaws. Effect of revocation. District may allocate.

In all cases where notices are given permittees under this act by registered mail and addressed to the post-office address of such permittee as shown by the records of such grazing district such notices shall be deemed received by the permittee when deposited in the United States post office by the district or by the commission." Notice deemed received on deposit in post office.

Approved Febraury 16, 1971

CHAPTER NO. 25

An Act Providing that the Valuation of Shares of Stock of National and State Banks for Purposes of Taxation be Determined in Like Manner; Repealing Section 84-306, R.C.M. 1947, Relating to Valuation of Shares of Stock of National Banks, and Amending Section 84-307, R.C.M. 1947, Relating to Valuation of Shares of Stock of State Banks, to Accomplish the Intent of this Act; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-306, R.C.M. 1947, is repealed. Repealing clause.

Section 2. Section 84-307, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-307. **Assessment of shares of banks—deductions.** The shares of all banking corporations engaged in the banking business in Montana shall be valued and assessed Bank shares assessed at cash value.

HeinOnline -- 1971 vol. I 401 1971

for the purpose of taxation at the full cash value thereof, less the *book* value of the real estate, moneyed capital and other property of any such bank assessed and taxed as the property of said bank."

Less book value.

Effective immediately.

Section 3. This act is effective upon its passage and approval.

Approved February 16, 1971

CHAPTER NO. 26

An Act Amending Section 81-204, R.C.M. 1947, to Eliminate the Requirements for Issuance of Triplicate Receipts for Payments Made to the State Through the Office of the State Commissioner of Lands and Investments; Providing for Receipts for Cash Payment or upon Request; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose.

Section 1. In order to insure a more effective administration of the moneys collected and received by the state through the office of commissioner of state lands and investments as fees, rentals, royalties, interest, penalties, payments on mortgages or lands purchased from the state or derived from any other source the requirements of issuance and distribution of triplicate receipts for moneys so received shall be deleted from the duties of the commissioner of state lands and investments.

Triplicate receipts for monies deleted from duties of commissioner of state lands and investments.

Amending clause.

Section 2. Section 81-204, R.C.M. 1947, is amended to read as follows:

"81-204. **Powers and duties of commissioner—ex officio secretary of the board.** He shall be ex officio the secretary of the state board of land commissioners, keep the minutes of its proceedings, be the custodian of its seal and records and carry out its orders. Under the direction of the board and all legal provisions governing such business, and through the proper officers, agencies and persons herein provided, he shall have charge of the selecting, exchange, classification, appraisal, leasing, management, sale and other disposition of the state lands and the investment of the funds arising therefrom or otherwise coming under the administration of the department.

Ex officio secretary.

Custodian.

Charge of state lands.

Investment of funds.

HeinOnline -- 1971 vol. I 402 1971

He shall perform such other duties as the board may direct, the purpose of the department seems to demand, or the statutes require. He shall collect and receive all moneys payable to the state through his office as fees, rentals, royalties, interest, penalties, payments on mortgages or lands purchased from the state or derived from any other source. *He shall issue a receipt for each cash payment, or whenever requested by the payer.*"

Other duties.

Collection of monies.

Receipt for cash or by request.

Section 3. This act is effective upon its passage and approval.

Effective immediately.

Approved February 16, 1971

CHAPTER NO. 27

An Act to Provide for the Cancellation of Leases on State Lands by the Commissioner of State Lands and Investments Subject to Appeal to the State Board of Land Commissioners, by Amending Sections 81-414, 81-415, 81-419 and 81-422, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In order that the interests of the state are adequately protected and the administration of the state lands is performed in a more efficient manner the leases on state lands shall be subject to cancellation by the commissioner of state lands and investments subject to appeal to the state board of land commissioners.

Purpose.

Leases on state lands subject to cancellation.

Section 2. Section 81-414, R.C.M. 1947, is amended to read as follows:

Amending clause.

"81-414. **Change in terms of lease.** Whenever any land is leased for grazing purposes, and the lessee desires to cultivate any part of the land, he shall before doing any such cultivation, make application to the commissioner stating how much land he desires to cultivate, showing the location in the section of such land, send his lease to the commissioner to have the necessary changes made therein, and shall agree that for the remainder of the term of the lease the annual rental shall be at the rate of the original lease until such time as the first crop is

Lessee shall apply for change in lease to cultivate grazing land.

Annual rental.

HeinOnline -- 1971 vol. I 403 1971

Original rate plus crop share rental.

Violation.

Cancellation.

Appeal.

Penalties.

Mandatory provision.

harvested from the cultivated portion of the lease. At the time of the first harvest, the lease shall be at the original rate for that portion remaining as grazing land plus the crop share rental for that portion cultivated. In case any person shall cultivate lands leased for grazing purposes, without having first secured the right to do so in the manner herein provided, the lease shall be subject to cancellation *by the commissioner subject to the appeal procedure provided in section 81-422, R.C.M. 1947,* or the lessee shall be liable for twice the regular agricultural rental on the land so cultivated in addition to the grazing rental thereof as may be decided by the board. The provisions of this section shall be incorporated in every lease."

Amending clause.

Section 3. Section 81-415, R.C.M. 1947, is amended to read as follows:

Mandatory conditions in leases.

Good management —agricultural lands.

Good range management.

"81-415. **Conditions of leases—cancellation for violation of rules.** It shall be a condition of all leases of agricultural or grazing state lands, (a) that, in the case of agricultural lands, the lessee shall observe the ordinary rules for good management of agricultural lands and shall so handle the leased land with the view of maintaining its productivity and so that wind and soil erosion and noxious weeds are minimized, and that crops are so planted with a view of securing the greatest yields of good quality, and (b) that, in the case of grazing lands, the lessee shall observe the ordinary rules for good range management and shall so manipulate the numbers, class, distribution and season of the range use and the handling, feeding, breeding and marketing of grazing livestock with a view of securing the production of the maximum of livestock and livestock products, consistent with the conservation of the land resources and the perpetuation of its productivity, and to these ends the state land lease shall not be abused by overgrazing.

Overgrazing prohibited.

Violation.

Cancellation.

Appeal.

For the gross violation of any of said rules, the lease involved *shall* be cancelled by the *commissioner, subject to the appeal procedure provided in section 81-422, R.C.M. 1947."*

Amending clause.

Section 4. Section 81-419, R.C.M. 1947, is amended to read as follows:

Assignment of leases.

"81-419. **Assignment of leases — preferences — fee.** Leases to state lands may be assigned on blanks provided for that purpose by the state board of land commissioners,

HeinOnline -- 1971 vol. I 404 1971

but no such assignment shall be binding on the state unless the assignment is filed with the commissioner, approved by him and payment made of the assignment fee of three dollars ($3). Preference shall always be given to the applicant who wants the land for his own individual use so that the full advantage coming from the leasing and use of such lands may reach those who actually till the soil, and so that they shall not be compelled to pay a higher rental than that due the state. If a lessee subleases state lands on terms less advantageous to the sublessee than the terms given by the state *or subleases state lands without filing a copy of the sublease with the commissioner and without receiving his approval, the commissioner shall cancel the lease subject to the appeal procedure provided in section 81-422, R.C.M. 1947.*"

Filing. Approval. Fees.

Preferences—individual use.

Limitations on sublease.

Cancellation.

Appeal.

Section 5. Section 81-422, R.C.M. 1947, is amended to read as follows:

Amending clause.

"81-422. **Cancellation of leases.** The *commissioner* shall have the power and authority in *his* discretion to cancel a lease for any of the following causes: For fraud or misrepresentation, or for concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued; for using the land for other purposes than those authorized by the lease, and for any other cause which in the judgment of the *commissioner* makes the cancellation of the lease necessary in order to do justice to all parties concerned and to protect the interests of the state. Such cancellation shall not entitle the lessee to any refundment of rentals paid or exemption from the payment of any rentals, penalties or other compensation due the state.

Authority of commissioner to cancel leases for cause.

No refunds.

When the commissioner cancels a lease pursuant to this section or sections 81-414, 81-415, 81-419, R.C.M. 1947, he shall immediately notify the lessee by certified mail of such cancellation and the reasons therefor. The date of cancellation shall be fifteen (15) days from the date said notice is received by lessee. The lessee shall have fifteen (15) days from and after the receipt of said notice to file a notice of appeal with the commissioner. If notice of appeal is filed, the lease shall remain in effect until the decision of the board has been handed down. Within ten (10) days after notice of appeal has been filed, the commissioner shall set the time and place of hearing and shall so notify the

Notice of cancellation.

15 days.

Notice of appeal.

Notice of hearing.

HeinOnline -- 1971 vol. I 405 1971

lessee. The board may, after ten (10) days' notice to the lessee, change the time and place of hearing.

Conduct of hearing. *Under such rules as it shall provide, the board shall conduct an open hearing to determine whether the lease should* Burden of proof. *be reinstated. The burden of proof shall be on the lessee* Testimony. *to show why the lease should not be cancelled. All testimony* Reinstatement. *shall be given under oath and reduced to writing. If the lease is reinstated, all of the lessee's rights and privileges* Releasing. *thereunder shall be preserved; if not, the land shall be open for releasing as provided by law. If the board finds that the terms of the lease have been violated but, in its judgment, the violation is not serious enough to warrant can-* Penalties. *cellation, it may reinstate the lease and assess a penalty up to three (3) times the annual rental against the lessee."*

Effective immediately. Section 6. This act is to become effective upon its passage and approval.

Approved February 16, 1971

CHAPTER NO. 28

An Act Amending Section 91-4411, R.C.M. 1947, to Clarify the Application of the Estate Tax Upon Transfers of Estates of Decedents; to Include Nonresident Estates Under the Act; to Provide an Apportionment Formula when Estate is Partly Within and Partly Without the State; and to Provide a Tax Situs for Property for Estate Tax Purposes, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 91-4411, R.C.M. 1947, is amended to read as follows:

"91-4411. **Estate tax.** (a) In addition to the *inheritance* Estate tax imposed. taxes hereinabove imposed, an estate tax is hereby imposed upon the transfer of *the estate of every decedent leaving an estate which is subject to the Federal estate tax imposed by the United States of America under the applicable provisions of the Internal Revenue Code and which has, in* Taxable situs. Computation. *whole or in part, a taxable situs in this state. The tax hereby imposed upon the transfer of each such estate shall be equal to the maximum tax credit allowable for state death taxes against the Federal estate tax imposed with respect to*

HeinOnline -- 1971 vol. I 406 1971

the portion of the decedent's estate having a taxable situs in this state, less the inheritance taxes, if any, due this state, it being the purpose and intent of this section to impose only such additional taxes hereunder as may be necessary to give this state the full benefit of the maximum tax credit allowable against the Federal estate tax imposed with respect to a decedent's estate which has a taxable situs in this state. If only a portion of a decedent's estate has a taxable situs in this state, such maximum tax credit shall be determined by multiplying the entire amount of the credit allowable against the Federal estate tax for state death taxes by the percentage which the value of the portion of the decedent's estate which has a taxable situs in this state bears to the value of the entire estate. The tax imposed herein shall be collected by the several county treasurers or the state *board of equalization for deposit with the state treasurer* and distributed as hereafter provided. *For the purpose of this tax, the taxable situs of property shall be the same as the taxable situs for inheritance tax purposes.*

Purpose.

Computation on portion.

Disposition of tax monies.

Taxable situs defined.

(b) **When payable.** The estate tax shall be payable to the county treasurer of the county in which such estate is being probated at the same time, or times, at which the United States tax is payable and shall bear interest, if any, at the same rate and for the same period as such United States tax.

Time for payment.

Interest.

(c) **Liability.** Administrators, executors, trustees and grantees under a conveyance, made during the grantor's life and taxable hereunder, shall be liable for such taxes with interest, until the same have been paid.

Liability for taxes.

(d) **Lien.** Said taxes and interest shall be, and remain, a lien on the property *for a period of ten (10) years from the date of death, unless sooner paid.*

Lien for ten years.

(e) **Extension of time.** The district court of the county in which such estate is being probated may, for cause shown, extend the time of payment of said tax whenever the circumstances of the case require.

District court may extend time for payment.

(f) **Duplicate returns.** It shall be the duty of the legal representative of the estate of any decedent, whose estate may be subject to the payment of a United States estate tax, to file duplicates of the United States estate tax returns with the district court of the county in which such

Duty to file duplicate returns.

HeinOnline -- 1971 vol. I 407 1971

Evidence of federal tax.

estate is being probated. He shall also file with such court a certificate or other evidence from the bureau of internal revenue showing the amount of the United States estate tax as computed by that department. The district court shall hear all parties desiring to be heard with respect to

Order determining tax.

the amount of state estate tax and shall enter an order determining such tax and the amount thereof so due and payable. Any person in interest aggrieved by such determination shall have the same right of rehearing and appeal as is now provided for in the determination of inheritance taxes.

Rehearing and appeal.

Purpose.

(g) **Intent of subdivisions (a) to (h).** It is hereby declared to be the intent and purpose of subdivisions (a) to (h) to obtain for this state the benefit of the credit allowed under the provisions of said Internal Revenue Code, to the extent that this state may be entitled by the provisions of said act, by imposing additional taxes and the same shall be liberally construed to effect this purpose.

Saving clause.

(h) **Provisions applicable.** The provisions of sections 91-4401 to 91-4456, inclusive, relating to the tax on inheritances and transfers, shall apply to the taxes imposed by subdivisions (a) to (h), in so far as the same are applicable and not in conflict with the provisions hereof."

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved February 16, 1971

CHAPTER NO. 29

An Act to Provide for the Establishment, Organization and Operation of the Agricultural Experiment Station by Amending Sections 75-8411, 75-8428, and Repealing in their Entirety Sections 75-8412, 75-8413, 75-8414, 75-8415, 75-8416, 75-8417, 75-8418, 75-8419, 75-8420, 75-8421 and 75-8422 of the Higher Education Laws Recodification of the Forty-Second Session Laws of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-8411, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 408 1971

"75-8411. **Agricultural experiment station—*establishment,* purpose.** (1) There is establisehed at *the state university at Bozeman,* and under its direction, an agricultural experiment station, by *virtue of the Hatch Act,* approved *by Congress on* March 2, 1887. The provisions, donations and benefits contained in that act and all acts supplementary thereto or amendatory thereof, are accepted and adopted by the state of Montana.

Agricultural experiment station established at state university. State adopts Hatch Act.

(2) *The purpose of the agricultural experiment station shall be to conduct and promote studies, scientific investigations and experiments relating to agriculture, natural resources and rural life, and to diffuse information thereby acquired among the people of Montana.*

Purposes.

(3) *The agricultural experiment station shall include, in addition to the central location at Bozeman, the designated research centers and other affiliated testing and research facilities."*

Additional facilities.

Section 2. Section 75-8428, R.C.M. 1947, is amended to read as follows:

Amending clause.

"75-8428. **Purposes of Northern Montana College.** (1) Northern Montana College has for its purpose, instruction and education in:

Northern Montana college—mandatory instruction.

(a) the English language, history, literature, mathematics, bookkeeping, moral philosophy and political, rural and household economy;

(b) mechanical arts, agricultural chemistry, animal and vegetable anatomy and physiology, and veterinary art;

(c) entomology, geology, and such other natural sciences as may be prescribed by the regents;

(d) agriculture, horticulture, and especially the application of science and the mechanical arts to practical agriculture in the field;

(e) irrigation and use of water for agricultural purposes; and

(f) all that relates to an efficient, modern manual training school."

Section 3. **Duties of director of the agricultural experi-**

HeinOnline -- 1971 vol. I 409 1971

Duties of director—supervision.

ment station. The director shall have the immediate direction, management and control of the agricultural experiment station, subject to the general supervision, direction and control of the regents and the president of the state university.

Research centers.

Section 4. **Agricultural research centers.** The following agricultural research centers are established as a part of the agricultural experiment station: (1) the central agricultural research center, located near Moccasin;

Moccasin.

(2) the western agricultural research center, located near Corvallis;

Corvallis.

(3) the northern agricultural research center, located near Havre;

Havre.

(4) the southern agricultural research center, located near Huntley;

Huntley.

(5) the northwestern agricultural research center, located near Kalispell;

Kalispell.

(6) the eastern agricultural research center, located near Sidney.

Sidney.

Supervision.

All research centers shall be under the general supervision of the director of the agricultural experiment station.

Montana wool laboratory established.

Section 5. **Montana wool laboratory—designation—purpose:** (1) There is established as a part of the agricultural experiment station the Montana wool laboratory.

Purpose.

(2) The purpose of the laboratory shall be the carrying on of effective scientific and practical research and testing work to develop as complete and accurate a knowledge of wools as possible.

Supervision.

(3) The wool laboratory shall be under the general direction of the director of the agricultural experiment station.

Montana grain and seed laboratory established.

Section 6. **Montana grain and seed laboratory.** (1) There is established as a part of the agricultural experiment station the Montana grain and seed laboratory.

Purpose.

(2) The purpose of the laboratory shall be the carrying on of effective scientific and practical research and testing work to develop as complete and accurate a knowledge of grains and seeds as possible.

HeinOnline -- 1971 vol. I 410 1971

(3) The laboratory shall be under the general direction of the director of the agricultural experiment station. Supervision.

Section 7. The director, with the consent of the regents, may accept on behalf of the state of Montana, for the use of the agricultural experiment station, donations of real property, money, implements, scientific equipment, building materials, animals, supplies, and any other gifts considered beneficial by the director. Such donations may be accepted from both public and private sources, including the government of the United States. Director may accept donations.

Section 8. The director of the agricultural experiment station may take appropriate steps to qualify for and receive grants and other forms of assistance made available by the government of the United States and may enter into agreements with governmental agencies for cooperative research studies. Director may apply for grants.

Section 9. Any income received from the sale of agricultural products and services by the agricultural experiment station shall be deposited in the state treasury and shall be used to defray the costs of operating the station. Deposit of income.

Section 10. Sections 75-8412, 75-8413, 75-8414, 75-8415, 75-8416, 75-8417, 75-8418, 75-8419, 75-8420, 75-8421 and 75-8422 are repealed. Repealing clause.

Approved February 16, 1971

CHAPTER NO. 30

An Act Amending Sections 28-103 and 28-123, R.C.M. 1947, Providing for Definitions of Conservation and Lands for Conservation Purposes; and Providing for Disposal of Moneys for Forest, Forest Range, Forest Water, and Forest Soil Conservation by the Board of Forestry.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 28-103, R.C.M. 1947, is amended to read as follows: Amending clause.

"28-103. **Definitions, as used in this chapter.** Forest land, for fire protection purposes, is defined as any land which has enough timber, standing or down; slash or Definitions. Forest land.

HeinOnline -- 1971 vol. I 411 1971

brush, to constitute in the judgment of the board a fire menace to life or property, provided, that grassland and agricultural areas are included when such areas are intermingled with or contiguous to areas of forest land.

Lands for conservation purposes.

Lands for conservation purposes are defined as all forest lands within the state of Montana which are officially classified by the board as forest lands in accordance with 28-104 (b).

Forest fire.

Forest fire is defined as a fire burning uncontrolled on forest lands.

Organized forest fire protection district.

Organized forest fire protection district is defined as a definite forest land area, the boundaries of which are fixed, and wherein, forest fire protection is provided through the medium of an agency recognized by the board.

Recognized agency.

Recognized agency is defined as an agency representing owners of forest lands in an organized forest fire protection district, organized for the purpose of providing forest fire protection in such district and recognized by the board as giving adequate fire protection to such forest lands in accordance with rules and regulations prescribed by the board. Any public agency administering and protecting forest lands may also be recognized by the board as such an agency.

Public agency.

Forest fire season.

Forest fire season is defined as the period of each year beginning on May first and ending on September thirtieth, inclusive; provided, however, that in the event of excessive or great fire danger, this period may be expanded when in the judgment of the state forester dangerous fire conditions exist. When so expanded, the state forester shall give public notice.

Expansion.

Notice.

Forest fire protection.

Forest fire protection is defined as the work of prevention, detection and suppression of forest fires.

Protection zone.

Protection zone is a broad area within which the forest fire protection costs are approximately the same. Protection zones will be designated by the state forester, with the approval of the board.

Conservation.

Conservation is defined as the protection and wise use of forest, forest range, forest water, and forest soil resources in keeping with the common welfare of the people of the state of Montana.

HeinOnline -- 1971 vol. I 412 1971

Owner is defined as the person, firm, association or corporation having the actual, beneficial ownership of forest land, or timber, other than an easement, right of way, or mineral reservation.''

Owner.

Section 2. Section 28-123, R.C.M. 1947, is amended to read as follows:

Amending clause.

"28-123. **Disposal of moneys.** The following funds may be expended as directed by the board for fire prevention, detection, suppression *and forest, forest range, forest water, and forest soil conservation:* All moneys collected by county treasurers as assessments on forest lands for forest protection; moneys collected for the abatement of public nuisances; all fines collected for the violations of this act; the state's share of the cooperative fire protection funds allocated by the federal government and any other funds provided for the purposes herein indicated. All other cooperative funds collected, appropriated or allocated for the use of the state forester, including funds for the removal of slash hazards resulting from logging or other wood operations on state and private forest lands, those provided for the purpose of helping to maintain the maximum productivity of the forests of the state, those provided for purposes designed to assist the farmers of the state in the establishment of windbreaks and woodlots in localities where such forest plantings are helpful, and funds for other cooperative work, shall not be expended except for the specific purposes for which the same were collected, appropriated or allocated.''

Expenditures.

Sources of monies.

Limitations.

Approved February 16, 1971

CHAPTER NO. 31

An Act Amending Section 3-1902, R.C.M. 1947, by Permitting Certain Seeds up to a Given Percentage to be Included in Class 2 and Class 3 Mustard Seed Without Being Considered Foreign Material and Without Affecting Grading and to Update Testing Processes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 3-1902, R.C.M. 1947, is amended to read as follows:

Amending clause.

HeinOnline -- 1971 vol. I 413 1971

Definitions.

"3-1902. **Definitions and specifications.** The following definitions and specifications are hereby adopted and made legal:

Damaged seeds.

(1) **Damaged Seeds**—Damaged seeds shall be all seeds and pieces of seeds of mustard seed, which are completely covered with mould, very green, sprouted, frosted, badly ground damaged, badly weather damaged, or otherwise distinctly damaged.

Heat damaged seeds.

(2) **Heat Damaged Seeds**—Heat damaged seeds shall be seeds and pieces of seeds of mustard seed which have been distinctly discolored by external heat or as a result of heating caused by fermentation.

Dockage.

(3) **Dockage**—Dockage includes sand, dirt, weed seeds, weed stems, chaff, straw, mustard seed other than tame mustard and any other foreign material, which can be removed readily from the mustard by the use of appropriate sieves, cleaning devices or other practical means suited to separate the foreign material present, also undeveloped, shriveled and small pieces of mustard seeds removed in properly separating the foreign material, which cannot be recovered by properly rescreening or recleaning. The quantity of dockage shall be calculated in terms of percentage. When less than one-half per cent (½%) it shall be disregarded. The percentage of dockage so determined and stated, shall be added to the grade designation. Dockage is to be calculated by the one-half per cent (½%), that is to say 0% to 0.4% will be designated as no dockage, 0.5% to 0.9% will be designated as ½% dockage, 1% to 1.4% will be designated as 1% dockage, 1.5% to 1.9% will be designated as 1½% dockage, and so on.

Calculations.

Foreign material other than dockage.

(4) **Foreign Material Other Than Dockage**—Foreign material other than dockage shall include all matter other than tame cultivated mustard seed, which is not separated in the proper determination of dockage; *however, rapeseed, common wild mustards, and other seeds that blend with class 2 and class 3 mustard seed, and thus are not readily identified, and the total of which is not in excess of two and one-half per cent (2½%), shall not be considered foreign material, and shall not be considered in grading said classes of mustard seed.*

Exceptions.

2½%.

Determination of dockage.

Basis of Determination: Each determination of dockage, temperature, odor and live weevil or other insects injurious

HeinOnline -- 1971 vol. I 414 1971

to stored mustard seed, shall be upon the basis of the seed as a whole. All other determinations shall be upon the basis of the seed when free from dockage. Other determinations.

(5) **Percentages**—Percentages, except in the case of moisture, shall be percentages ascertained by weight. Weight.

(6) **Percentages of Moisture**—Percentage of moisture shall be that ascertained by *use of the equipment and procedure prescribed by the Montana department of agriculture.* Moisture.

(7) **Percentage of Dockage**—Percentage of dockage shall be that ascertained by *use of the equipment and procedure prescribed by the Montana department of agriculture.* Dockage.

(8) **Test Weight Per Bushel**—The test weight per bushel shall be the weight per Winchester bushel as determined by the testing apparatus and the method of use thereof described in Bulletin 1065 U.S.D.A. dated May 18, 1922, or as determined by any device and method which give equivalent results in the determination of test weight per bushel. Test weight per bushel.

(9) **All Other Determinations**—The percentage of damage, heat damage, sound cultivated mustard seed, foreign material and determinations of all other factors not otherwise provided for shall be on the basis of a portion cut from the original sample and separated by hand picking. All other determinations.

Approved February 16, 1971.

CHAPTER NO. 32

An Act to Permit Banks to Suspend Business During an Emergency and on Any Day or Days Proclaimed as a Day or Days of Mourning, Rejoicing, or Other Special Observance and Amending Section 19-107, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** As used in this act, unless the context otherwise requires: Definitions.

(1) "Commissioner" means the officer of this state designated by law to exercise supervision over banks, and any other person lawfully exercising such powers. "Commissioner."

HeinOnline -- 1971 vol. I 415 1971

"Bank." (2) "Bank" includes commercial banks, savings banks, trust companies, any person or association of persons lawfully carrying on the business of banking, whether incorporated or not, and to the extent that the provisions hereof are not inconsistent with and do not infringe upon paramount federal law, also includes national banks.

"Officers." (3) "Officers" means the person or persons designated by the board of directors, board of trustees, or other governing body of a bank, to act for the bank in carrying out the provisions of this act or, in the absence of any such designation or of the officer or officers so designated, the president or any other officer currently in charge of the bank or of the office or offices in question.

"Office." (4) "Office" means any place at which a bank transacts its business or conducts operations related to its business.

"Emergency." (5) "Emergency" means any condition or occurrence which may interfere physically with the conduct of normal business operations at one or more or all of the offices of a bank, or which poses an imminent or existing threat to the safety or security of persons or property, or both. Without limiting the generality of the foregoing, an emergency may arise as a result of any one or more of the following: fire; flood; earthquake; hurricanes; wind, rain, or snow storms; labor disputes and strikes; power failures; transportation failures; interruption of communication facilities; shortages of fuel, housing, food, transportation or labor; robbery or attempted robbery; actual or threatened enemy attack; epidemics or other catastrophies; riots, civil commotions, and other acts of lawlessness or violence, actual or threatened.

Commissioner may authorize emergency closing of banks.

Proclamation.

Reopening.

Section 2. **Power of commissioner.** Whenever the commissioner is of the opinion that an emergency exists, or is impending, in this state or in any part or parts of this state, he may, by proclamation, authorize banks located in the affected area or areas to close any or all of their offices. In addition, if the commissioner is of the opinion that an emergency exists, or is impending, which affects, or may affect, a particular bank or banks, or a particular office or offices thereof, but not banks located in the area generally, he may authorize the particular bank or banks, or office or offices so affected, to close. The office or offices so closed shall remain closed until the com-

HeinOnline -- 1971 vol. I 416 1971

missioner proclaims that the emergency has ended, or until such earlier time as the officers of the bank determine that one or more offices, theretofore closed because of the emergency, should reopen, and, in either event, for such further time thereafter as may reasonably be required to reopen.

Officers may close banks in emergency.

Section 3. **Powers of officers.** A. Whenever the officers of a bank are of the opinion that an emergency exists, or is impending, which affects, or may affect, one or more or all of a bank's offices, they shall have the authority, in the reasonable and proper exercise of their discretion, to determine not to open any one or more or all of such offices on any business or banking day or, if having opened, to close any one or more or all of such offices during the continuation of such emergency, even if the commissioner has not issued and does not issue a proclamation of emergency. The office or offices so closed shall remain closed until such time as the officers determine that the emergency has ended, and for such further time thereafter as may reasonably be required to reopen; however, in no case shall such office or offices remain closed for more than forty-eight (48) consecutive hours, excluding other legal holidays, without requesting the approval of the commissioner.

Reopening.

Limitation.

48 consecutive hours.

Approval.

Officers may close on special days.

B. The officers of a bank may close any one or more or all of the bank's offices on any day or days designated, by proclamation of the president of the United States or the governor of this state, as a day or days of mourning, rejoicing, or other special observance.

Prompt notice.

Section 4. **Notice to commissioner.** A bank closing an office or offices pursuant to the authority granted under section 3 (A) of this act shall give as prompt notice of its action as conditions will permit and by any means available, to the commissioner, and in the case of a national bank, to the comptroller of the currency.

Effect of closing.

Section 5. **Effect of closing.** Any day on which a bank, or any one or more of its offices, is closed during all or any part of its normal banking hours pursuant to the authorization granted under this act shall be, with respect to such bank or, if not all of its offices are closed, then with respect to any office or offices which are closed, a legal holiday for all purposes with respect to any banking business of any character. No liability, or loss

Legal holiday.

HeinOnline -- 1971 vol. I 417 1971

of rights of any kind, on the part of any bank, or director, officer, or employee thereof, shall accrue or result by virtue of any closing authorized by this act.

Provisions in addition to other laws.

The provisions of this act shall be construed and applied as being in addition to any other law of this state or of the United States, authorizing the closing of a bank or excusing the delay by a bank in the performance of its duties and obligations because of emergencies or conditions beyond the bank's control, or otherwise.

Amending clauses.

Section 6. Section 19-107, R.C.M. 1947, is amended to read as follows:

Legal holidays defined.

"19-107. **Legal holidays and business days defined.** The following are legal holidays in the state of Montana:

(1) Each Sunday.

(2) New Year's Day, January 1.

(3) Lincoln's Birthday, February 12.

(4) Washington's Birthday, the third Monday in February.

(5) Memorial Day, the last Monday in May.

(6) Independence Day, July 4.

(7) Labor Day, the first Monday in September.

(8) Columbus Day, the second Monday in October.

(9) Veterans' Day, the fourth Monday in October.

(10) Thanksgiving Day, the fourth Thursday in November.

(11) Christmas Day, December 25.

(12) State general election day.

Monday following Sunday holidays.

If any of the above-enumerated holidays (except Sunday) fall upon a Sunday, the Monday following is a holiday. All other days are business days.

Permissive Saturday closing of banks.

Whenever any bank in the state of Montana elects to remain closed and refrains from the transaction of business on Saturday, pursuant to authority for permissive closing on Saturdays by virtue of the laws of the state, legal holidays for such bank during the year of such election are hereby limited to the following holidays:

Limited holidays.

(1) Each Sunday.

HeinOnline -- 1971 vol. I 418 1971

(2) New Year's Day, January 1.

(3) Memorial Day, the last Monday in May.

(4) Independence Day, July 4.

(5) Labor Day, the first Monday in September.

(6) Thanksgiving Day, the fourth Thursday in November.

(7) Christmas Day, December 25.

(8) *On such days as banks are closed in accordance with sections 1 through 5 of this act.*

Any bank practicing Saturday closing in compliance with law may remain closed and refrain from the transaction of business on Saturdays, notwithstanding that a Saturday may coincide with a legal holiday other than one of the holidays designated above for banks practicing Saturday closing in compliance with law, and provided further that it shall be optional for any bank, whether practicing Saturday closing or not, to observe as a holiday and to be closed on any day upon which a general election is held throughout the state of Montana and on Veterans' Day, the fourth Monday in October, and on any local holiday which historically or traditionally or by proclamation of a local executive official or governing body is established as a day upon which businesses are generally closed in the community in which the bank is located."

Saturday closing on legal holiday.

Optional closings.

Approved February 18, 1971

CHAPTER 33

An Act Providing for the Salaries of Commissioners and Mayor under the Commission-manager Plan of City Government and Amending Section 11-3248, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-3248, R.C.M., 1947, is amended to read as follows:

Amending clause.

"11-3248. **Compensation of commissioners and mayor.**

HeinOnline -- 1971 vol. I 419 1971

Salaries for commissioners and mayors.

The salary of each commissioner may be as follows: *The salary of each commissioner shall be as established by ordinance in all classes of cities.* The salary of the commissioner acting as mayor may be one and one-half times that of the other commissioners."

Approved February 18, 1971.

CHAPTER 34

An Act Amending Section 91-4415, R.C.M., 1947, to Provide That Inheritance Taxes Be Collected by Only the State Board of Equalization and County Treasurer, and that the County Treasurer Receipt for Inheritance Taxes Collected in Quintuplet and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-4415, R.C.M., 1947, is amended to read as follows:

"91-4415. **When payment due—lien of tax—liability for payment—place of payment—receipts—receipt or bond required before final accounting allowed.** All taxes imposed by this act shall be due and payable at the time of the death of the decedent, except as hereinafter provided; and every such tax shall be and remain in lien upon the property transferred for a period of ten (10) years from the time of the death of the decedent, whether said death occurred before or after the effective date of this act, unless sooner paid, and the person to whom the property is transferred and the administrators, executors, and trustees of every estate so transferred shall be personally liable for such tax until its payment.

Taxes due at death.

Lien for 10 years.

Personal liability.

Payment of tax.

Receipt—5 copies.

Distribution of copies.

The tax shall be paid to the *state board of equalization for transmittal to the* state treasurer or to the treasurer of the county in which the district court is situated having jurisdiction as herein provided, and if paid to the county treasurer said treasurer shall *receipt therefor, making five copies thereof, and distribute said copies as follows: original receipt, to the clerk of the district court; first copy, to the executor, administrator, trustee, or person paying said tax; second copy, attached to and mailed with the report required by section 91-4450, as amended, to the*

HeinOnline -- 1971 vol. I 420 1971

state board of equalization; third copy, to the county clerk and recorder; fourth copy, retained by the treasurer on file in his office. The copy of the receipt given to the executor, administrator, or trustee shall be a proper voucher in the settlement of his accounts.

Voucher.

No executor, administrator, or trustee shall be entitled to a final accounting of an estate, in settlement of which a tax is due under the provisions of this act, unless he shall produce such receipt or a certified copy thereof or unless a bond shall have been filed as prescribed by section 91-4419."

Limitation on final accounting.

Section 2. This act is effective on passage and approval.

Effective immediately.

Approved February 18, 1971.

CHAPTER 35

An Act Relating to the Classification of Property for Taxation; Providing a Basis for the Imposition of Taxes; Amending Sections 84-301 and 84-302, R.C.M., 1947, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-301, R.C.M., 1947, is amended to read as follows:

Amending clause.

"84-301. **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows:

Classifications of taxable property.

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Class one.

HeinOnline -- 1971 vol. I 421 1971

Class two.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds except mobile homes, boats and all water craft, harness, saddlery and robes and except as provided in Class Five (b) of this section, all poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by all persons, firms, corporations, and other organizations which are engaged in the business of furnishing telephone communications, exclusively to rural areas, or to rural areas and cities and towns provided that any such city or town has a population of eight hundred (800) persons or less; and provided further, that the average circuit miles for each station on the system is more than one and one-quarter (1¼) miles.

Class three.

Class Three. Livestock, poultry and the unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith, except mobile homes; and all office or hotel furniture and fixtures.

Class four.

Class Four. (a) All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract or purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five or Class Seven.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those held by a distributor or dealer of mobile homes as part of his stock in trade.

Class five—moneys and credits.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without

Exception.

any deduction or offset; provided, however, that the terms 'moneys and credits' as herein used shall not em-

HeinOnline -- 1971 vol. I 422 1971

brace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both.

Class Six. Property formerly included in this class is now classified by section 84-308, R.C.M., 1947. Class six.

Class Seven. (a) **All new industrial property.** New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state board of equalization, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961, within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group

Class seven—new industrial property defined.

New industry defined.

Limitations.

Exceptions.

Application.

HeinOnline -- 1971 vol. I 423 1971

seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner and form as may be required by said board.

Class eight.

Class Eight. Any improvement on real property valued at not more than seventeen thousand five hundred dollars ($17,500), which is owned and actually occupied by a widow, with or without minor or dependent children, or by:

(1) a widow sixty-two (62) years of age or older, whether with or without minor dependent children, or

(2) a widower sixty-five (65) years of age or older, whether with or without minor dependent children, or

(3) a widow with minor or dependent children regardless of age, or

(4) a recipient of retirement benefits whose income from all sources is not more than three thousand three hundred dollars ($3,300) for a single person and four thousand five hundred dollars ($4,500) for a married couple per annum. Provided, further, that one who applies for classification of property under this class must make an affidavit before the county assessor of the county in which said property is located, on a form as may be provided by the state board of equalization supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Affidavit.

Right to investigate.

Value shall not increase.

Class nine.

Freeport merchandise defined.

Class Nine. *Freeport merchandise. Freeport merchandise means those stocks of merchandise manufactured or produced outside this state which are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state, for storage in transit prior to shipment to a final destination outside the state, and which have acquired a taxable situs within the state.*

HeinOnline -- 1971 vol. I 424 1971

Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. Status.

Any person, corporation, firm, partnership, association, or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner or form as may be required by said board. Application.

The state board of equalization shall establish standards, rules and regulations for the guidance of county assessors and assessing freeport merchandise. Board shall establish standards.

Class Ten. All property not included in the nine (9) preceding classes."

Section 2. Section 84-302, R.C.M., 1947, is amended to read as follows: Amending clause.

"84-302. **Basis for imposition of taxes.** As a basis for the imposition of taxes upon the different classes of property specified in the preceding section, a percentage of the true and full value of the property of each class shall be taken as follows: Basis for taxes. Percentages of value.

Class 1. One hundred per cent (100%) of its true and full value.

Class 2. Twenty per cent (20%) of its true and full value.

Class 3. Thirty-three and one-third per cent (33-1/3%) of its true and full value.

Class 4. Thirty per cent (30%) of its true and full value.

Class 5. Seven per cent (7%) of its true and full value.

Class 6. Forty per cent (40%) of its true and full value.

Class 7. Seven per cent (7%) of its true and full value.

Class 8. Fifteen per cent (15%) of its true and full value.

Class 9. *One per cent (1%) of its true and full value.*

HeinOnline -- 1971 vol. I 425 1971

Class 10. Forty percent (40%) of its true and full value."

Repealing clause. Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately. Section 4. This act is effective on its passage and approval.

Approved February 18, 1971.

CHAPTER 36

An Act Amending Sections 91-4418 and 91-4450, R.C.M., 1947, to Provide for Monthly Reports and Remittance to the State Board of Equalization of Collections by County Treasurers Made under Inheritance Tax Laws, and to Provide for Appropriate Refunds by the State Board of Equalization; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 91-4418, R.C.M., 1947, is amended to read as follows:

"91-4418. **Refunding of tax—when authorized—manner of refunding—advance payment of tax for relief from penalty and interest.** If any debt shall be proved against the estate of the decedent, after the payment of any legacy or distributive share thereof, from which any such tax has been deducted, or upon which it has been paid by the person entitled to such legacy or distributive share and such person is required by the order of the district court having jurisdiction of the tax so deducted or paid, to refund the amount or such debts or any part thereof, an equitable proportion thereof shall be repaid to such person by the executor, administrator or trustee, if the said tax has not been paid to the county treasurer or state treasurer, or by them, in the proper proportionate shares, if it has been so paid.

Refund of inheritance taxes.

Order of court.

Proper shares.

Estimated tax may be paid before determination. Any person from whom such tax is or may be due may make an estimate of and pay the same to the clerk of court, who shall receipt therefor, at any time before the same is determined by the court, and shall thereupon be relieved from any interest or penalty upon the amount

Effect.

HeinOnline -- 1971 vol. I 426 1971

so paid in the same manner as if the tax were then determined. In the event the person making payment has done so in accordance with the provisions of section 91-4416, pertaining to the allowance of a five per cent (5%) discount, the person making payment shall be relieved from any interest or penalty and shall be allowed the five per cent (5%) discount upon the amount which he so declared due as his inheritance tax liability. The tax may be declared to be due by the filing with the clerk of court of a statment of such declaration or by paying the amount estimated by the taxpayer to be due. The money shall be paid to the clerk of the district court who must deposit same with the county treasurer. *The county treasurer shall include such collections in the next payment he makes to the state board of equalization pursuant to section 91-4450.* As soon as the correct amount of inheritance tax has been determined, any excess so paid shall be refunded to the person so paying or entitled thereto by *the state board of equalization based upon the filing of a properly documented claim by the* clerk of court.''

Discount.

Declaration of tax.

Deposit of money.

Payment to state board of equalization.

Refund of excess.

Claim.

Section 2. Section 91-4450, R.C.M., 1947, is amended to read as follows:

Amending clause.

"91-4450. *Monthly* **reports of county treasurer—payment of** *collections* **to state** *board of equalization*—**interest on unpaid amounts.** *On or before the fifth day of each month each* county treasurer shall make a report under oath to the state *board of equalization listing* all *payments* received by him under the inheritance tax laws, *during the preceding month, and* stating for what estate, by whom and when paid. The form of such report *shall* be prescribed by the state *board of equalization.* He shall at the same time pay the state *board of equalization* all the *payments* received by him under the inheritance tax laws and not previously paid *to* the state *board of equalization,* and for all such *payments* collected by him and not paid *to* the state *board of equalization* within five days from the time herein required, he shall pay interest at the rate of ten per cent (10%) per annum.''

Monthly report of county treasurer to board.

Forms.

Payment of monies.

Penalty for nonpayment—interest 10% per annum.

Section 3. The change in reporting and remittance of payments received as provided in section 2 is effective for such payments received, or on hand, on or after April 1, 1971. The first report and remittance based on the change is due by May 5, 1971.

Effective date of payments.

HeinOnline -- 1971 vol. I 427 1971

Effective immediately.

Section 4. This act is effective upon its passage and approval.

Approved February 18, 1971.

CHAPTER 37

An Act to Amend Section 32-3317, R.C.M., 1947, by Removing the Requirements for Marking Gross Weight upon Vehicles, Motor Trucks, Truck-tractor, Trailer or Semitrailers Operated upon Highways and Repealing Section 32-3311, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-3317, R.C.M., 1947, is amended to read as follows:

Penalties for excess weight—determination.

"32-3317. **Excess weight—penalties.** (1) The operator shall be subject to the penalties stated in this section whenever the gross laden weight of any motor truck, truck-tractor, trailer, or semitrailer operated upon any highway in this state exceeds:

(a) The gross vehicle weight shown on the owner's certificate of registration and tax receipt issued pursuant to section 53-107, or

(b) The gross vehicle weight shown on the gross vehicle weight receipt issued pursuant to section 53-620.

(2) The operator shall:

Payment for excess.

Immediately thereafter pay to the nearest county treasurer *or state highway commission* the difference between the fee already paid and that applicable to the gross weight

Exception.

of his vehicle before unloading the excess, provided that it does not exceed the legal axle weight."

Repealing clause.

Section 2. Section 32-3311, R.C.M., 1947, is repealed.

Approved February 20, 1971.

CHAPTER 38

An Act to Amend Section 87-106, R.C.M., 1947, to Provide that Permanent Partial Disability Settlements of Work-

HeinOnline -- 1971 vol. I 428 1971

men's Compensation, Occupational Disease, or Similar Laws, Prior to a Return to the Labor Market, Shall Not Disqualify an Injured Claimant from then Receiving Unemployment Compensation Benefits, if He Is Otherwise Eligible.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 87-106, R.C.M., 1947, is amended to read as follows: Amending clause.

"87-106. **Disqualification for benefits.** An individual shall be disqualified for benefits— Disqualification for benefits.

(a) If he has left work without good cause attributable to the employment for a period of not less than two (2) nor more than five (5) weeks (in addition to and immediately following the waiting period), as determined by the commission according to the circumstances in each case. No benefit payments or amounts paid any individual after having left work without good cause attributable to the employment shall ever be charged under section 87-109 against any employer (whose employment the individual left) on account of that particular employment. Leaving work without good cause.

(b) If he has been discharged: (1) For misconduct connected with his work, or affecting his employment, for a period of not less than two (2) nor more than nine (9) weeks (in addition to and immediately following the waiting period), as determined by the commission in each case according to the seriousness of the misconduct: Discharge for misconduct.

(2) For gross misconduct connected with his work or committed on the employer's premises, as determined by the commission, for a period of twelve (12) months. Gross misconduct.

No benefit payments or amounts paid any individual after having been discharged for misconduct shall ever be charged under section 87-109 against any employer (from whose employment the individual was discharged for misconduct as above provided) on account of that particular employment.

(c) If he failed, without good cause, either to apply for available and suitable work when so directed by the employment office or the commission or to accept suitable work offered to him which he is physically able and mentally qualified to perform, or to return to his customary self-employment (if any) when so directed by the Failure to apply. Accept suitable work. Self-employment.

HeinOnline -- 1971 vol. I 429 1971

Period of disqualification.

commission. Such disqualification shall continue for the week in which such failure occurred and for not less than two (2) nor more than five (5) weeks in addition to the waiting week which immediately follow such week as determined by the commission according to the circumstances in each case.

Determination of suitable work.

(1) In determining whether or not any work is suitable for an individual, the commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and previous earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

Work not deemed suitable—conditions.

(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual, for refusing to accept new work under any of the following conditions:

Labor dispute.

(A) If position offered is vacant due directly to a strike, lockout, or other labor dispute;

Conditions of work.

(B) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

Labor organizations.

(C) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Stoppage of work.

(d) For any week with respect to which the commission finds that his total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the commission that—

Exceptions.

Nonparticipation.

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

Different class of work.

(2) He does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises

HeinOnline -- 1971 vol. I 430 1971

at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute;

Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises; provided, further, that if the commission, upon investigation, shall find that such labor dispute is caused by the failure or refusal of any employer to conform to the provisions of any law of the state wherein the labor dispute occurs or of the United States pertaining to collective bargaining, hours, wages or other conditions of work, such labor dispute shall not render the workers ineligible for benefits.

Separate premises.

Illegal activity of employer.

(e) For any week with respect to which he is receiving or has received payment in the form of—

(1) Wages in lieu of notice or separation or termination allowance;

Wages.

(2) Compensation for disability under the Workmen's Compensation Law or the Occupational Disease Law of this or any other state or under a similar law of the United States; *provided, however, that when an injured claimant has ceased to draw compensation benefits and shall have returned to the labor market, he shall then be entitled to receive unemployment compensation benefits under this title, if he shall be otherwise qualified. Provided further, that compensation which is received as a payment for a permanent partial disability shall not be computed to be spread over a period of weeks in advance so as to bar the recipient from receiving unemployment compensation benefits under this title, provided the recipient has returned to the labor market and is otherwise qualified.*

Compensation.

Injured claimant—return to labor market.

Computation.

(3) **Benefits under the Railroad Unemployment Insurance Act or any state unemployment compensation act or similar laws of any state or of the United States.** This disqualification does not apply to any week with respect to which an individual is receiving or has received benefits under an unemployment compensation law of another state or of the United States, if such benefits are paid pursuant to section 87-129.

Benefits.

Limitation.

HeinOnline -- 1971 vol. I 431 1971

Receipt of any wages, compensation or benefits as set forth in subsection (1), (2), or (3) above, after payment of unemployment benefits, and with respect to the same week for which unemployment benefits were received, will thereupon require such individual to repay such unemployment benefits and the commission may collect such unemployment benefits in the same manner as provided for collection of benefits under section 87-145 (d).

Required repayment.

Student.

(f) During the school year (within the autumn, winter and spring seasons of the year) or the vacation periods within such school year or during any prescribed school term if claimant is a student regularly attending an established educational institution.

Leaving work to be married.

(g) For any week wherein claimant leaves her most recent work to be married. Such disqualification shall cancel all existing wage credits and shall continue until such time as subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105.

Retirement compensation.

Application.

No charge to employer.

Determination by commission.

10 days notice.

Social security benefits.

(h) Where retired and entitled to receive retirement compensation in excess of one hundred dollars ($100.00) per calendar month paid in whole or in part from funds furnished by an employing unit, such disqualification to be applied as follows: All wages earned by such individual in the employment from which he has been retired shall not be considered or included in determining his wage credits or weekly benefit amount under section 87-103 and 87-105. No benefit payments or amounts paid any retired individual shall ever be charged under section 87-109 against any employing unit from whose employment the individual is retired and entitled to receive retirement compensation, on account of that particular employment, unless and until the commission shall determine (upon hearing, if requested by employer, and after at least ten (10) days' written notice of such hearing to said employer) that the individual was not retired by the employer acting in good faith. This disqualification does not extend to the receipt of benefits under the Federal Social Security Act, as amended.

Leave due to pregnancy.

(i) For any week wherein claimant leaves her most recent employment during pregnancy, and due to such pregnancy, and such disqualifications shall continue through the period of pregnancy unless claimant presents

HeinOnline -- 1971 vol. I 432 1971

evidence of her physical ability to work at such employment. At any time after the seventh month of pregnancy a claimant, to establish eligibility, must present evidence of physical ability to work at such employment. Further, at any time during the first two (2) months following childbirth, a claimant, to establish eligibility, must present evidence of her physical ability to work at such employment. In any of the cases set forth hereinbefore, such evidence of eligibility must be in the form of a certificate of a duly licensed physician that such claimant is physically able to work at her most recent employment, and such evidence must be presented as often as requested by the commission. No benefit payments or amounts paid any individual after having left work because of pregnancy or childbirth shall ever be charged under section 87-109 against the employer (whose employment the individual left because of pregnancy or because of childbirth) on account of that particular employment.

Seventh month.

Two months after childbirth.

Certificate of physician.

No charge to employer.

(j) For any week wherein claimant leaves her most recent work to change her place of residence in order to remain with her husband or relative. Such disqualification shall cancel all existing wage credits and shall continue until such time as subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105."

Leave to change residence.

Approved February 20, 1971.

CHAPTER NO. 39

An Act Relating to Freedom from Discrimination for Women as a Civil Right in Employment and Public Accommodations; Amending Sections 64-301, 64-302, and 64-303, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 64-301, R.C.M., 1947, is amended to read as follows:

Amending clause.

"64-301. **Freedom from discrimination as civil right—employment—public accommodations.** The right to be free from discrimination because of race, creed, color, *sex,* or national origin is recognized as and declared to

Civil right defined.

HeinOnline -- 1971 vol. I 433 1971

be a civil right. This right shall include, but not be limited to:

Employment. (1) The right to obtain and hold employment without discrimination.

Accommodations. (2) The right to the full enjoyment of any of the accommodation facilities or privileges of any place of public resort, accommodation, assemblage or amusement."

Amending clause. Section 2. Section 64-302, R.C.M., 1947, is amended to read as follows:

Definitions. "64-302. **Definition of terms.** Terms used in this act shall have the following definitions:

"Every person." *(1)* "Every person" shall be construed to include any owner, lessee, proprietor, manager, agent or employee whether one *(1)* or more natural persons, partnerships, associations, organizations, corporations, co-operatives, legal representatives, trustees, receivers, of this state and its political subdivisions, boards and commissions, engaged in or exercising control over the operation of any place of public resort, accommodation, assemblage or amusement.

"Deny." *(2)* "Deny" is hereby defined to include any act which directly or indirectly, or by subterfuge, by a person or his agent or employee, results or is intended or calculated to result in whole or in part in any discrimination, distinction, restriction or unequal treatment or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying or lodging in any place of public resort, accommodation, assemblage or amusement except for conditions and limitations established by law and applicable alike to all persons, regardless of race, creed, *sex,* or color.

"Full enjoyment of." *(3)* "Full enjoyment of" shall be construed to include the right to purchase any service, commodity or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, without acts directly or indirectly causing persons of any particular race, creed, *sex,* or

HeinOnline -- 1971 vol. I 434 1971

color, to be treated as not welcome, accepted, desired or solicited.

(4) "National origin" includes "ancestry." "National origin."

(5) "Any place of public resort, accommodation, assemblage or amusement" is hereby defined to include, but not to be limited to, any public place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, or for the sale of goods and merchandise, or for the rendering of personal service, or for public conveyance or transportation on land, water or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates or assembles for amusement, recreation of public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or any educational institution wholly or partially supported by public funds, or schools of special instruction, or nursery schools, or day care centers or children's camps; nothing herein contained shall be construed to include, or apply to, any institute, bona fide club, or place of accommodation, which is by its nature distinctly private provided that where public use is permitted that use shall be covered by this section; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution; and the right of a natural parent in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed." "Any place of public resort, accommodation, assemblage or amusement." Private facilities. Public use. Religious institutions. Right of natural parent affirmed.

Section 3. Section 64-303, R.C.M., 1947, is amended to read as follows: Amending clause.

"64-303. **Discrimination as misdemeanor.** Every person who denies to any other person because of race, creed, color, *sex,* or national origin the right to employment; Discriminations. Penalties.

HeinOnline -- 1971 vol. I 435 1971

(1) by refusing to hire, *(2)* by discharging, *(3)* by barring from employment, or *(4)* by discriminating against such person in compensation or in other terms or conditions of employment; and every person who denies to any other person because of race, creed, color, *sex,* or national origin the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, shall be guilty of a misdemeanor."

Approved February 20, 1971.

CHAPTER 40

An Act to Amend Section 92-1305, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-1305, R.C.M., 1947, is amended to read as follows:

Occupational diseases—employment.

"92-1305. **Proximate causation.** Occupational diseases shall be deemed to arise out of the employment only if:

Causal connection.

1. There is a direct causal connection between the conditions under which the work is performed and the occupational disease.

Natural incident—exposure.

2. The disease can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment.

Proximate cause.

3. The disease can be fairly traced to the employment as the proximate cause.

Outside hazard.

4. The disease does not come from a hazard to which workmen would have been equally exposed outside of the employment.

Incidental to employment.

5. The disease is incidental to the character of the business and not independent of the relation of employer and employee."

Approved February 20, 1971.

CHAPTER 41

An Act to Amend Section 92-1304, R.C.M., 1947, Defining Occupational Disease.

HeinOnline -- 1971 vol. I 436 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 92-1304, R.C.M., 1947, is amended to read as follows: Amending clause.

"92-1304. **Occupational disease.** *The term 'occupational disease' shall mean all diseases arising out of or contracted from and in the course of employment."* Occupational disease defined.

Approved February 20, 1971.

CHAPTER 42

An Act to Amend Section 75-6808, R.C.M. 1947, Relating to Pecuniary Interests of a Trustee in Schools of His District.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-6808, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-6808. **Pecuniary interests, letting contracts and calling for bids, under certain circumstances.** It shall be unlawful for any trustee to *(1)* have any pecuniary interest, either directly or indirectly, in the erection of any school building, or for warming, ventilating, furnishing, or repairing the same, or *(2)* be in any manner connected with the furnishing of supplies for the maintenance and operation of the schools, *or (3) be employed in any capacity by the school district of which he is trustee.* Conflict of interests of trustees made unlawful.

The trustees of any district shall not let any contract for building, furnishing, repairing or other work for the benefit of the district, or purchasing supplies for the district, without first advertising in a newspaper that will give notice to the largest number of people of the district as determined by the trustees for at least two (2) weeks, calling for bids to perform such work or to furnish such supplies, except: (1) the trustees of a third-class district only maintaining elementary schools with fewer than three (3) rooms may contract for such work or supplies without advertising and without bids, when the amount involved is less than eight hundred dollars ($800); Mandatory advertising for bids prior to contract. Exceptions. $800.

(2) the trustees of a third-class district, other than those described in subsection (1), may contract for such

HeinOnline -- 1971 vol. I 437 1971

$1,500.

work or supplies, without advertising and without bids, when the amount involved is less than fifteen hundred dollars ($1,500); and

$2,500.

(3) the trustees of a second-class district or a first-class district may contract for such work or supplies, without advertising and without bids, when the amount involved is less than two thousand five hundred dollars ($2,500).

Award.

Rejection.

In all cases where bidding is required, the trustees shall award the contract to the lowest responsible bidder except that the trustees shall have the right to reject any or all bids.

Trustees—community college district.

With regard to contracting for work or supplies, the board of trustees of a community college district shall be subject to the provisions of section 75-8118."

Approved February 20, 1971

CHAPTER NO. 43

An Act to Provide that the Hunting or Fishing License or Camping Permit of Any Person Convicted of Littering Public or Private Lands While Hunting, Fishing or Camping Shall be Forfeited for Ninety Days.

Be it enacted by the Legislative Assembly of the State of Montana:

Penalties for littering by licensed fishermen or hunters.

Section 1. Any holder of a Montana resident or non-resident fishing or hunting license, or camping permit convicted of littering campgrounds, public or private lands, streams, or lakes while hunting, fishing or camping shall forfeit his license and privilege to hunt, fish, camp or trap within Montana for a period of ninety (90) days from the date of conviction.

Approved February 20, 1971

CHAPTER NO. 44

An Act to Amend Section 75-6520, R.C.M., 1947, Providing for the Establishment of High School Districts.

HeinOnline -- 1971 vol. I 438 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-6520, R.C.M., 1947, is amended to read as follows: Amending clause.

"75-6520. **Establishment of high school districts in a county.** The trustees of a high school *district* located in a county, which has not been divided into high school districts or become a high school district by county high school unification, may request the division of the county into a high school district or districts. The request shall be sent to the county superintendent." Trustees of high school district may request division of county.

Approved February 20, 1971

CHAPTER NO. 45

An Act to Amend Section 32-2197, R.C.M., 1947, Relating to Overtaking and Passing a School Bus.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-2197, R.C.M., 1947, is amended to read as follows: Amending clause.

"32-2197. **Overtaking and passing a school bus.** (a) The driver of a vehicle upon a highway outside the corporate limits of any city or town upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on said bus a visual *flashing red* signal as specified in section 32-21-132 and said driver shall not proceed until such school bus resumes motion, *and in addition the driver of a vehicle must slow and proceed with caution when meeting or overtaking from either direction any school bus which is preparing to stop on the highway for the purpose of receiving or discharging any school children as indicated by flashing amber lights as specified in section 32-21-132.* Duty of vehicle operator to stop for school bus. Flashing red signal. Duty to slow. Flashing amber lights.

(b) Every bus used for the transportation of school children shall bear upon the front and rear thereof plainly visible signs containing the words "SCHOOL BUS" in letters not less than eight (8) inches in height, and in addition shall be equipped with visual signals meeting the Mandatory markings on school bus. Visual signals.

HeinOnline -- 1971 vol. I 439 1971

Duty to activate lights.

requirements of section 32-21-132. Amber flashing lights shall be actuated by the driver approximately one hundred and fifty (150) feet in cities, and approximately five hundred (500) feet in other areas before the bus is stopped to receive or discharge school children. Red lights shall be actuated by the driver of said school bus whenever but only whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

Other purposes—cancealed markings.

(c) When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school all markings thereon indicating "SCHOOL BUS" shall be covered or concealed.

Vehicle operator not required to stop.

(d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway."

Approved February 20, 1971

CHAPTER NO. 46

An Act Amending Section 26-201, R.C.M., 1947, to Provide for the Genus Acinpenser (Sturgeon) to be Gamefish.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-201, R.C.M., 1947, is amended to read as follows:

Definitions.

"26-201. **Definitions.** For the purpose of this act, the following shall be construed, respectively to mean:

Commission.

Commission. The state fish and game commission.

Person.

Person. The plural or singular, male or female as the case demands, including individual, associations, partnerships, and corporations, unless the context otherwise requires.

Open season.

Open season. The time during which game birds, fish, game and fur-bearing animals may be lawfully taken.

HeinOnline -- 1971 vol. I 440 1971

Closed season. The time during which game birds, fish, game and fur-bearing animals may not be lawfully taken. Closed season.

Angling or fishing. The taking of, or attempting to take fish by hook and single line or single rod in hand or within immediate control. Angling or fishing.

Upland game birds. Sharptail grouse, blue grouse, prairie chicken, sage hen or sage grouse, fool hen, ruffed grouse, commonly called native pheasant or native partridge, quail, Chinese pheasant and Mongolian pheasant, commonly called ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge. Upland game birds.

Migratory game birds. Waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown, sandhill and whooping cranes; rails, including coots, gallinules, sora or other rails; shore birds, including avocets, curlew, dowitcher, godwits, knots, upland prover, killdeer, sandpipers, Wilson snipes, or jacksnipes, snipes, stilts, plovers, willets and yellow legs. Migratory game birds.

Nongame birds. All wild birds not defined herein as upland game birds or migratory game birds, shall be deemed nongame birds. Nongame birds.

Game animals. Deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, bear and bison or buffalo. Game animals.

Fur-bearing animals. Marten or sable, otter, muskrat, fisher, mink, beaver and black-footed ferret. Fur-bearing animals.

Predatory animals. Coyote, wolf, wolverine, mountain lion, weasel, skunk and civetcat, and bobcat. Predatory animals.

Game fish. All species of the family salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus strizostedion [stizostedion] (sandpike or sauger and walleyed pike or yellow pike perch); all species of the genus esox (northern pike, pickerel and muskellunge); all species of the genus micropeterus (bass); all species of the genus polyodon (paddlefish) *and all species of the genus acipenser (sturgeon).*" Game fish.

Approved February 20, 1971.

CHAPTER NO. 47

An Act Amending Section 11-1814, R.C.M., 1947, to Provide for Reducing the Entrance Age of Policemen to Twenty.

HeinOnline -- 1971 vol. I 441 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1814, R.C.M., 1947, is amended to read as follows:

Age limits for policemen.

"11-1814. **Qualifications of policemen.** The members of a police department of any city, at the time of their appointment under this act, shall not be less than *twenty (20)* years of age nor more than forty years of age, provided, however, that any city council shall have the power by ordinances duly passed and approved to retire any police officer on half pay, who shall have arrived at the age of sixty-five years, or who shall have served continuously as a police officer for a period of not less than twenty-five years, or who shall have become incapacitated to perform the duties of his office by reason of injury or accident sustained while actually engaged in the performance of his duties as an officer.

Retirement qualifications for half pay. 65 years of age.

25 years service.

Service disability.

Qualifications for police officers.

In every case a police officer must be a citizen of the United States, must have resided in the state of Montana at least two years, and have been a resident of the city or town in which he is appointed at least six (6) months prior to such appointment, such qualifications also to apply to every officer on the eligible list, at the time he shall be transferred to the active list.

Every police officer must be able to speak and write understandingly the English language."

Approved February 20, 1971

CHAPTER NO. 48

An Act to Amend Section 26-202.2, R.C.M., 1947, to Provide a Seven Year Waiting Period for Persons who Have Killed a Grizzly Bear.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-202.2, R.C.M., 1947, is amended to read as follows:

Special licenses.

"26-202.2. **Special licenses—tagging of carcasses of game animals.** (1) Special licenses authorized to be issued under the general powers of the fish and game commission may be issued only to persons holding valid big game licenses for the current year, which have been ob-

Big game licenses.

HeinOnline -- 1971 vol. I 442 1971

tained by the applicant prior to the time of filing of application for a special license.

Conditions for eligibility for special licenses.

(2) Any person who has obtained a *grizzly bear,* moose, mountain sheep, bison, or buffalo license shall not be eligible to apply for another such license for the next succeeding seven (7) years, if such person has killed or taken an animal of the species for which such special license was issued. Any person who has obtained a *grizzly bear,* moose, mountain sheep, bison or buffalo license but did not kill or take an animal of the species for which such special license was issued, shall be eligible to apply for another such license in any succeeding year if he returns his unused special license to the fish and game commission before or at the time application is made. It is further provided that any person who has received a special license for elk or mountain goat shall not be eligible to receive a second special license for this species of game animal during any license year. However, in the event the number of applications received is not equal to the number of game species desired to be killed by the commission reapplication may be made by those valid license holders of the current year who may fall within these limitations. It is further provided that any person who has killed or taken a game animal, except a deer during the current license year, shall not be permitted to receive a special license under this act to hunt or kill a second game animal of the same species.

Limitations on number issued.

Licenses require tags, coupons or markers.

(3) Tagging of carcasses of game animals. Every license issued by the fish and game commission authorizing the holder thereof to pursue, shoot, kill, capture, take or possess game animals, whether issued to a resident or a nonresident, shall provide such tags, coupons, or markers, as the commission shall prescribe, and when any person should take or kill any game animal under such license, such person shall immediately thereafter cut out, from the tag, coupon or other marker, the date the animal was killed or taken and attach the tag, coupon or other marker to said animal, completely filled out with the name of the license holder, his address, and any other information requested on such tag, coupon or other marker, and such tag, coupon or other marker shall be kept attached to said carcass so long as any considerable portion of the carcass remains unconsumed, and when the proper tag, coupon or other marker is attached to said game animal so killed, the same may be possessed, used, stored and transported. Any person who

Duty to attach tag, coupon or marker to carcass taken.

Effect.

Penalties for violation.

HeinOnline -- 1971 vol. I 443 1971

should kill any game animal by authority of any license issued for the killing of such game animal, and shall fail or neglect to cut out day and month of kill or provide such other information as is required and attach his tag, coupon or other marker so provided with the license issued, to the carcass of said game animal or portion thereof, or any person who shall fail to keep said tag, coupon or other marker attached to said game animal or portion thereof while the same is possessed by him shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided for by law in section 26-324.''

Approved February 20, 1971

CHAPTER NO. 49

An Act to Amend Section 75-6103, R.C.M., 1947, Relating to Teacher Tenure.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-6103, R.C.M., 1947, is amended to read as follows:

Teacher acquires tenure after four consecutive contracts.

"75-6103. **Teacher tenure.** Whenever a teacher has been elected by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position requiring teacher certification except as a district superintendent, the teacher shall be deemed to be reelected from year to year thereafter as a tenure teacher at the same salary and in the same or a comparable position of employment as that provided by the last executed contract with such teacher, unless:

Exceptions.

Termination.

(1) the trustees resolve by majority vote of their membership to terminate the services of the teacher in accordance with the provisions of section 75-6104; *or*

65 years of age.

Notice.

(2) the teacher will attain the age of sixty-five (65) years before the ensuing first day of September and the trustees have notified the teacher in writing by the first day of April that his services will not be needed in the ensuing school fiscal year, except that the trustees may continue to employ such a teacher from year to year until the school fiscal year following his seventieth (70th) birthday.''

Mandatory termination—70 years of age.

Approved February 20, 1971

HeinOnline -- 1971 vol. I 444 1971

CHAPTER NO. 50

An Act Amending Section 48-118.1, R.C.M., 1947, Providing for Delegation of Authority from District Court Judges to Clerks of Court for Determining and Entering Order on Marriage Application.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 48-118.1, R.C.M. 1947, is amended to read as follows: Amending clause.

"48-118.1. **Application for license.** An application for a marriage license shall be filed at least five (5) days before a license shall be issued; provided, that, upon application of either of the parties to a proposed marriage, any judge of a district court may, upon satisfactory evidence being presented to him that either of the parties to the proposed marriage is dangerously ill, such illness being likely to result in death, or upon the request of the parents or guardian, if any, or upon any other circumstance which, in the opinion of the judge of the district court, warrants special dispensation may by order authorize the license to be issued at any time before the expiration of the said five (5) days; provided, further that such judge shall, before issuing such order, require that the parties making application for such marriage license shall be examined under oath, and shall give the reasons why such license should not be withheld by the clerk of the district court for the statutory period. Such order shall be delivered to the clerk of the district court issuing the license and by him retained as prima facie evidence of his authority to issue the said marriage license within the five (5) day period. *The judge or judges of any judicial district may delegate authority to the clerk or clerks of the district court within said district for the purpose of making the determination and entering the order that the five (5) day period may be waived.*"

Application for marriage license filed five days before issue.

District judge may order waiver.

Examination under oath.

Order to clerk.

District judges may delegate authority to clerk.

Approved February 20, 1971

CHAPTER NO. 51

An Act Concerning the Limitation of Hours of Labor for Female Employees to Eight (8) Hours; Amending Section 41-1120 and Repealing Section 41-1118, R.C.M. 1947; and Providing an Effective Date.

HeinOnline -- 1971 vol. I 445 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 41-1120, R.C.M. 1947, is amended to read as follows:

Penalties for violation by employer.

"41-1120. **Violation of preceding section a misdemeanor—penalty.** Any employer who shall fail, neglect, or refuse to provide suitable seats, as provided in section 41-1119, or who shall permit or suffer any overseer, superintendent, or other agent of any such employer to violate any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense not less than fifty dollars *($50)* nor more than two hundred dollars *($200)*, or be imprisoned in the county jail for a period of not less than ten *(10)* nor more than sixty *(60)* days, or both such fine and imprisonment."

Repealing clause.

Section 2. Section 41-1118, R.C.M. 1947, is repealed.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved February 20, 1971

CHAPTER NO. 52

An Act to Amend Section 32-1208, R.C.M., 1947, Revising the Monetary Limits at which an Accident Must Be Reported from One Hundred Dollars ($100) to Two Hundred and Fifty Dollars ($250).

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-1208, R.C.M. 1947, is amended to read as follows:

Duty of vehicle operator to report accident within 10 days.

"32-1208. **Written reports of accidents, additional information, form of report.** (a) *The operator of any motor vehicle which is in any manner involved in an accident within this state, in which any person is killed or injured or in which damage to the property of any one person in excess of two hundred and fifty dollars ($250) is sustained, shall within ten (10) days after such accident report the matter in writing to the supervisor.*

Board may require additional reports.

(b) Additional information. The board may require any driver of a vehicle involved in an accident, of which

HeinOnline -- 1971 vol. I 446 1971

report must be made as provided in this section, to file supplemental reports whenever the original report is insufficient, and may require witnesses of accidents to render reports.

Duty of investigating officer to file report within 10 days.

(c) Every law enforcement officer who in the regular course of duty, investigates a motor vehicle accident, of which report must be made as required in this act, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall within ten (10) days after completing such investigation, forward a written report of such accident to the board.

Accident report forms.

(d) Form of report. The form of accident report required under section 32-1208, shall contain information sufficient to enable the department to determine whether the requirements for the deposit of security for safety responsibility are inapplicable by reason of the existence of insurance or other exemptions specified in this act."

Approved February 20, 1971.

CHAPTER NO. 53

An Act to Authorize the Highway Patrol Board to Issue Identification Cards to Persons over Eighteen (18) Years of Age.

Be it enacted by the Legislative Assembly of the State of Montana:

Authority of patrol board to issue identification cards.

Section 1. The Montana highway patrol board is hereby authorized to issue identification cards to any person over the age of eighteen (18) years not the holder of a valid drivers license.

Rules and regulations.

Section 2. The highway patrol board shall formulate reasonable rules and regulations for the application, issuing identification cards and cancellation thereof, and require the furnishing of such information necessary for the purpose of this act.

Nonliability for false information.

Section 3. No public entity shall be liable for any loss or injury resulting directly or indirectly from false or inaccurate information contained in identification cards provided for in this article.

HeinOnline -- 1971 vol. I 447 1971

Agents for issuance. Section 4. The highway patrol board shall have authority to appoint county treasurer and other qualified officers to act as its agent for the issuance of such identification cards.

Fees. Section 5. Fees not in excess of one dollar ($1) for such identification cards shall be collected and credited to a revolving fund which shall be known as the Montana Highway Patrol Identification Card Fund. Such fund shall be used by the Montana Highway Patrol to defray the cost of issuing identification cards.

Use of fund.

Approved February 20, 1971.

CHAPTER NO. 54

An Act to Amend Section 94-3527, R.C.M. 1947, Providing Exceptions for Carrying Concealed Weapons.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 94-3527, R.C.M. 1947, is amended to read as follows:

Concealed weapons. "94-3527. **Carrying certain concealed weapons outside of cities or towns forbidden—punishment—who excepted from act.** The preceding sections shall not apply to:

Exceptions.

1. A sheriff or his deputy;

2. A marshal or his deputy;

3. A constable or his deputy;

4. A police officer or policeman;

5. A United States marshal or his deputy;

6. A person in the secret service of the United States;

7. A game warden or his deputy;

8. A U.S. forest reserve official or his deputy;

9. A person in actual service as a national guardsman;

10. A revenue officer or his deputy;

11. A person summoned to the aid of either of the foregoing named persons;

HeinOnline -- 1971 vol. I 448 1971

12. A civil officer or his deputy engaged in the discharge of official business;

13. A person authorized by a judge of a district court of this state to carry a weapon;

14. The carrying of arms on one's own premises or at his home or place of business;

15. Any peace officer of the state of Montana;

16. United States immigration and naturalization service officer;

17. National park service rangers."

Approved February 20, 1971.

CHAPTER NO. 55

An Act to Amend Section 53-421, R.C.M. 1947, Revising the Monetary Limits at Which an Accident Must be Reported from One Hundred Dollars ($100) to Two Hundred and Fifty Dollars ($250).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-421, R.C.M. 1947, is amended to read as follows: Amending clause.

"53-421. **Report required following accident.** In addition to the reports required under chapter 12, Title 32 of the R.C.M. 1947, the operator of any motor vehicle which is in any manner involved in an accident within this state, in which any person is killed or injured or in which damage to the property of any one person in excess of *two hundred and fifty dollars ($250)* is sustained, shall within ten (10) days after such accident report the matter in writing to the supervisor. Such report, the form of which shall be prescribed by the supervisor, shall contain information to enable the supervisor to determine whether the requirements for the deposit of security under section 53-422 are inapplicable by reason of the existence of insurance or other exceptions specified in this act. The supervisor may rely upon the accuracy of the information unless and until he has reason to believe that the information is erroneous. If such operator be physically incapable of making such report, then any person may do so for and

Duty of vehicle operator to report accident within 10 days.

Required information.

Determination by supervisor.

Reliance on information.

Other persons may report.

HeinOnline -- 1971 vol. I 449 1971

Additional information.

on his behalf. The operator or the owner shall furnish such additional relevant information as the supervisor shall require."

Approved February 20, 1971

CHAPTER NO. 56

An Act to Amend Section 53-422, R.C.M. 1947, Revising the Damage Limit in Determining the Requirement of Security from One Hundred Dollars ($100) to Two Hundred Fifty Dollars ($250).

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 53-422, R.C.M. 1947, is amended to read as follows:

"53-422. **Determination of security required—suspension of license and registration—exceptions—liability insurance.** (a) If within twenty (20) days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person in excess of *two hundred fifty dollars ($250),* the supervisor does not have on file evidence satisfactory to him that the person who would otherwise be required to file security under subsection (b) of this section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the supervisor shall determine the amount of security which shall be sufficient in his judgment to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against each operator or owner.

Duty of supervisor to determine amount of security after report of accident.

Suspensions within 60 days.

Licenses.

Registrations.

(b) The supervisor shall, within sixty (60) days after the receipt of such report of a motor vehicle accident, suspend the license of each operator and the registrar, upon request of the supervisor, shall suspend all registrations of each and every owner or co-owner of a motor vehicle, which is in any manner involved in such accident, except those registrations of co-owned vehicles not

HeinOnline -- 1971 vol. I 450 1971

involved in such accident and if such operator is a nonresident the privilege of operating a motor vehicle within this state, and if such owner is a nonresident the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner or both shall deposit security in the sum so determined by the supervisor; provided notice of the suspension of such registration or registrations shall be sent by the registrar to such operator and owner not less than ten (10) days prior to the effective date of such suspension and such notice shall state the amount required by the supervisor as security. Where erroneous information is given the supervisor with respect to the matters set forth in subdivisions 1, 2 or 3 of subsection (c) of this section, he shall take appropriate action as hereinbefore provided, within sixty (60) days after the receipt by him of correct information with respect to said matters.

Nonresident privileges.

Deposit of security.

10 day notice of suspension.

Erroneous information.

(c) This section shall not apply under the conditions stated in section 53-423, nor;

Exceptions.

1. to such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;

Liability insurance coverage.

2. to such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

Policy or bond.

3. to such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the supervisor, covered by any other form of liability insurance policy or bond; nor

Policy or bond.

4. to any person qualifying as a self-insurer under section 53-451, or to any person operating a motor vehicle for such self-insurer.

Self-insurer.

No such policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in this state, except that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof, such

Limitations on effectiveness of insurance.

HeinOnline -- 1971 vol. I 451 1971

policy or bond shall not be effective under this section unless the insurance company or surety company if not authorized to do business in this state shall execute a power of attorney authorizing the supervisor to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident; provided, however, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than ten thousand dollars ($10,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than twenty thousand dollars ($20,000) because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than five thousand dollars ($5,000) because of injury to or destruction of property of others in any one accident."

Power of attorney to accept service.

Policy limits—bodily injury $10,000—$20,000.

Property damage—$5,000.

Approved February 20, 1971.

CHAPTER NO. 57

An Act to Amend Sections 75-6207, 75-6208, 75-6213, R.C.M. 1947, Relating to the Employer Contribution to the Pension Accumulation Fund, to Interest Due on Redeposit of Contributions, to the Retirement Benefits and Disability Benefits Paid by the Teachers Retirement System and Further Relating to the Payment of Interest when Purchasing Out-of-State Service.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-6207, R.C.M. 1947, is amended to read as follows:

Retirement board shall establish funds.

"75-6207. **Method of financing.** The retirement board shall establish and maintain the following funds in which all of the assets of the retirement system shall be credited according to the purpose for which the assets are held.

Annuity savings fund defined.

(1) **Annuity savings fund.** The annuity savings fund shall be a fund in which the contributions from the members to provide for their annuities shall be accumulated in individual accounts for each member. Contributions to and payments from the annuity savings fund shall be made in the following manner.

HeinOnline -- 1971 vol. I 452 1971

Payroll deductions.

(a) Each employer shall deduct from the compensation of each active member on each and every payroll of such member for each and every payroll period subsequent to the date on which such member became a member an amount equal to five percent (5%) of such member's earnable compensation, but no employer shall make any deductions for annuity purposes from the compensation of a member who has attained the age of sixty (60) and rendered thirty-five (35) years of creditable service if such member elects not to contribute.

Five percent.

60 years of age.

35 years service.

Determination of amount earnable.

(b) In determining the amount earnable by an active member in a payroll period, the retirement board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not an active member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required to any member by such an amount as shall not exceed one-tenth (1/10) of one percent (1%) of the annual compensation upon the basis of which said deduction is to be made.

Reduced minimum compensation.

Consent.

(c) Such deductions shall be made notwithstanding that the minimum compensation provided by law for a member may be reduced thereby. Every member shall be deemed to consent and agree to the deductions prescribed by this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by the retirement system.

Member may redeposit equal amount plus interest.

(d) In addition to the contributions deducted from compensation and subject to the approval of the retirement board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions *plus interest in the amount the contributions would have earned had the contributions not been withdrawn,* or any part thereof, which he had previously withdrawn; or any member may deposit therein by a single payment or by an increased rate of contribution amounts for the purchase of an additional annuity. Such additional

Deposit for purchase of additional annuity.

HeinOnline -- 1971 vol. I 453 1971

Disposition on disability retirement.

amounts so deposited shall become a part of his accumulated contributions. In the case of disability retirement, they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his retirement allowance.

Payment.

The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death shall be paid from the annuity savings fund, and an amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid shall be transferred to the pension accumulation fund. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

Transfer to pension accumulation fund.

Transfer.

Annuity reserve fund defined.

(2) **Annuity reserve fund.** The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, his annuity reserve fund shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

Active service.

Transfer to annuity savings fund.

Pension accumulation fund defined.

(3). **Pension accumulation fund.** The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

Employer contributions.

(a) Each employer shall pay into the pension accumulation fund an amount equal to *five percent (5%) of the* earnable compensation of each member employed during the whole or a part of the preceding payroll period.

School budget item.

(b) If the employer is a district or community college district, the trustees shall budget and pay for the employer's contribution under the provisions of section 75-7204.

Appropriations.

(c) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system or the Montana state deaf and blind school, the legislative assembly shall appro-

HeinOnline -- 1971 vol. I 454 1971

priate to each employer an adequate amount to allow the payment of the employer's contribution.

County budget item.

(d) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption of a county budget and for payments under such budget.

Earnings credited.

Transfers to proper funds.

(e) All interest and other earnings realized on the monies of the retirement system shall be credited to the pension accumulation fund and the amounts required to allow regular interest on the annuity savings fund, the annuity reserve fund and the pension reserve fund shall be transferred to the respective funds from the pension accumulation fund.

Payment—pensions and benefits.

(f) All pensions and benefits in lieu thereof, including pensions payable under section 75-6218, with the exception of those payable to members not entitled to prior service credit shall be paid from the pension accumulation fund.

Discretionary transfers.

(g) The retirement board may in its discretion transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund or the pension reserve fund, as shown by actuarial valuation, and also such expenses as hereinafter provided.

Transfer on retirement.

(h) Upon the retirement of a member who does not have a prior service certificate, the actuarial equivalent of his pension shall be transferred from the pension accumulation fund to the pension reserve fund.

Pension reserve fund defined.

(4) **Pension reserve fund.** The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted to members not entitled to prior service credit and from which shall be paid such pensions and benefits in lieu thereof. Should a member not entitled to prior service credit who has been retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the pension reserve held on account of his pension shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of such a disability beneficiary be reduced as a result of an increase in his earning capacity the amount of annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

Active service.

Transfer to pension accumulation fund.

Increased earning capacity.

HeinOnline -- 1971 vol. I 455 1971

Expense fund defined.

(5) **Expense fund.** The expense fund shall be the fund to which shall be credited all monies contributed for the administrative expenses of the retirement system and from which the expenses of administration of the retirement system shall be paid exclusive of amounts payable as retirement allowances or other benefits. The retirement board shall determine annually the amount required for the expense fund to defray the administrative expense in the ensuing fiscal year. Contributions shall be made to the expense fund as follows:

Annual amount required.

Contributions.

Payroll deduction—$1 per year.

(a) There shall be deducted from the compensation of each member by his employer the sum of one dollar ($1) for each year, in addition to all other deductions herein prescribed. The sum of such administrative assessments shall be paid to the retirement board by each employer in the same manner provided for the payment of the employee contributions. The administrative assessments shall be credited to the expense fund by the retirement board.

Payment to board.

Other sources.

(b) That portion of the expense fund not financed under subsection (a) shall be paid from interest and other earnings realized on the monies of the retirement system."

Amending clause.

Section 2. Section 75-6208, R.C.M. 1947, is amended to read as follows:

Basis for granting benefits.

"75-6208. **Benefits.** The retirement, disability and other benefits of the retirement system shall be granted on the basis of the following provisions: (1) Superannuation member retirement:

5 years service.

60 years of age.

(a) Any member who has completed five (5) years of creditable service, the last five (5) years of which shall have been in this state, and who has attained the age of sixty (60) may retire from service, if he files with the retirement board his written application setting forth the fact of his retirement.

70 years of age.

Exceptions.

(b) Any member in service who has attained the age of seventy (70) years during any school year shall be retired on the first day of September following his seventieth birthday, except that this provision shall not apply to teachers in the Montana university system who may be employed beyond the age of seventy (70) upon the recommendation of the president of the employing unit to

HeinOnline -- 1971 vol. I 456 1971

the board of regents. Members over seventy (70) years of age shall not: (1) be allowed creditable service for services rendered after the end of the school year in which the age of seventy (70) is attained, (2) contribute to the retirement system after the end of such school year, and (3) have the compensation received after the end of such school year used in computing average final salary. Initial employment of teachers in the Montana university system beyond the age of seventy (70) may be made upon the recommendation of the president of the employing unit and the approval of the board of regents but such employees shall be denied membership in the retirement system.

Limitations.

Employment—teachers beyond age of 70 years.

Nonmembership.

(c) Any retired member may be employed as a teacher in Montana and may earn an amount not to exceed one-fourth (1/4) of his average final compensation without loss of retirement benefits.

Employment—retired member.

(2) **Allowance for superannuation retirement.** Upon superannuation retirement a member shall receive a retirement allowance based upon the following provisions:

Basis for retirement allowance.

(a) He shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

Annuity.

(b) He also shall receive a pension of one-quarter (1/4) of his average final compensation provided his creditable service is at least thirty-five (35) years, otherwise, a pension of one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of his creditable service.

Pension.

(c) If he has a prior service certificate in full force and effect, he also shall receive an additional pension which shall be equal to one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

Additional pension.

(d) Or, upon superannuation retirement a member shall receive a superannuation retirement allowance which shall consist of a pension which, together with an annuity, shall provide a retirement allowance equal to one-half (½) of his average final compensation provided his creditable service is at least thirty-five (35) years, otherwise a pension together with his annuity of one-seventieth (1/70) of

Computation.

HeinOnline -- 1971 vol. I 457 1971

his average final compensation multiplied by the number of years of creditable service.

Actuarial equivalent.

(e) Or, upon superannuation retirement, a member shall receive a superannuation retirement allowance which shall consist of an annuity equal to the actuarial equivalent of his contributions at the time of his retirement and a pension equal to the actuarial equivalent of his contributions at the time of his retirement.

Minimums.

$1,500.

(f) The minimum annual retirement allowance for a member who has completed thirty (30) years service and who retired after September 1, 1937, and before June 30, 1948, shall be fifteen hundred dollars ($1,500) and the minimum retirement allowance for a member who retired after September 1, 1937, and before June 30, 1948, but whose service is less than thirty (30) years shall receive a minimum retirement allowance based on the proportionate amount of fifteen hundred dollars ($1,500) that his service bears to thirty (30) years of service.

$1,500.

(g) The minimum annual retirement allowance for a member who has completed thirty-five (35) years of service and who retires after June 30, 1949, shall be fifteen hundred dollars ($1,500).

Increase 2%.

(h) Each member receiving a superannuation allowance on June 30, 1967, shall be entitled to an increase in his original retirement allowance of two percent (2%) for each year he has been retired between July 1, 1937, and June 30, 1967, but if he is eligible under subsections (2) *(f)* or (2) *(g)* above and the benefit thereunder is larger than the increased retirement allowance prescribed herein, this provision shall not apply.

Refund to beneficiary.

(i) In the event a member retired on a superannuation allowance has not received more than three (3) retirement payments prior to death, the beneficiary of the member shall receive a refund of the difference between the total retirement allowance paid and the amount of the accumulated contributions.

(3) **Disability member retirement:**

Application for disability retirement.

(a) Upon the application of an active member or of his employer, any active member who has five (5) or more years of creditable service may be retired by the retirement board not less than thirty (30) and not more than

HeinOnline -- 1971 vol. I 458 1971

ninety (90) days after the date of filing such application on a disability retirement allowance. Before any member shall be eligible for a disability retirement, the medical board of the retirement system shall certify that he is mentally or physically incapacitated for the further performance of his duties, that such incapacity is likely to be permanent and that he should be retired.

Certification by medical board.

(b) If the applicant for disability retirement was prevented because of the disability from making application at the time of the commencement of his disability, the retirement board shall grant the disability retirement upon the proper application for disability retirement allowance and make payments retroactive to the thirtieth day after the date of commencement of his disability.

Retroactive payments.

(c) **Reexamination of beneficiaries retired on account of disability.** Once each year during the first five (5) years following the retirement of a member on disability retirement allowance, and once in every three (3) year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has not yet attained the age of sixty (60) to undergo a medical examination by the medical board or a physician or physicians designated by the medical board. The examination shall be made at the place of residence of the beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not yet attained the age of sixty (60) refuse to submit to at least one (1) medical examination in any year by the medical board or its representative, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his disability pension may be revoked by the retirement board.

Board shall require medical examinations.

Refusal to submit.

Discontinuance.

Revocation.

(d) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be changed later,

Report of medical board.

Reduced pension.

HeinOnline -- 1971 vol. I 459 1971

Further modifications.

the amount of his pension may be further modified but the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

Active service.

Reduced benefit nonmember.

Under age 60—active service.

Allowance ceases.

Active member.

Restoration of prior service certificate.

(e) Should a disability beneficiary under age sixty (60) be restored to active service at a compensation not less than his average final compensation, his retirement allowance shall cease, and he shall again become an active member of the retirement system. Any prior service certificate on the basis of which his service was computed at the time of his disability retirement shall be restored to full force and effect an addition upon his subsequent retirement, he shall be credited with all his subsequent service as a member. Should he be restored to active service on or after the attainment of the age of fifty-five (55) years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the period of his previous retirement nor the sum of the pension which he was receiving immediately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new member.

Active service—age 55.

Limitation on pension.

Disability retirement. Superannuation allowance.

Other allowance.

(4) **Allowance for disability retirement.** Upon retirement for disability, a member shall receive a superannuation allowance prescribed under subsection (2) above if he is eligible; otherwise he shall receive a disability retirement allowance which shall consist of:

Annuity.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement.

Pension.

(b) A pension which together with his annuity, shall provide a total retirement allowance equal to one--seventieth (1/70) of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter (1/4) of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retire-

HeinOnline -- 1971 vol. I 460 1971

ment allowance equal to one-quarter (1/4) of his average final compensation.

(c) In the event payments made to a person retired because of disability do not equal the amount of his accumulated contributions prior to his death, the difference between the total retirement allowance paid and the amount of the accumulated contributions of the member shall be paid to the beneficiary.

Payment to beneficiary.

(5) **Withdrawal of accumulated contributions.** Any inactive member electing to do so or any person whose membership terminates shall withdraw his accumulated contributions to his annuity account in the retirement system in accordance with the following provisions:

Inactive member may withdraw contributions.

(a) An inactive member under the provisions of subsections (1) or (3) of section 75-6210 may elect, without right of revocation to withdraw his accumulated contributions, and if he does not withdraw his accumulated contributions, he shall thereafter remain an inactive member of the retirement system with the right to qualify for the benefits of the retirement system;

Election.

Right to qualify for benefits.

(b) Upon recovery from a disabling illness or separation from the armed forces, any person qualifying as an inactive member under the provisions of subsection (2) of section 75-6210 shall withdraw his accumulated contributions unless he returns to active membership.

Withdrawal unless return to active membership.

(c) Any person whose membership terminates under the provisions of subsection (4) of section 75-6211 shall withdraw his accumulated contributions.

Termination.

Any person withdrawing his accumulated contributions shall be paid the amount he contributed, less any unpaid membership fees. The accumulated interest credited to his annuity account shall be transferred to the pension accumulation fund.

Amount of withdrawal.

Transfer of interest.

(6) **Allowances for death of member.**

(a) Should a member die before retirement the amount of the member's accumulated contributions shall be paid to his estate or such person as he may have designated in the manner prescribed by the retirement board which shall be filed with the board prior to the member's death.

Payment on death before retirement.

(b) In lieu of benefits provided in (a) above, if the

HeinOnline -- 1971 vol. I 461 1971

Beneficiary may elect annuity.

deceased member had qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to receive a monthly life annuity. The monthly life annuity shall be based on the beneficiary's attained age at the time of the deceased member's death and calculated from an amount equal to the required reserve for the deceased member's creditable service, together with the deceased member's accumulated contributions.

$50 per month—child under 18.

(c) If the deceased member had five (5) or more years of creditable service and was an active member in the state of Montana within one (1) year prior to his death, the sum of fifty dollars ($50) per month shall be paid to each minor child of the deceased member until such child reaches his eighteenth (18th) birthday.

(7) **Optional allowances.** With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement or disability allowance payable throughout life as hereinabove provided, or he may on retirement elect to receive the actuarial equivalent at that time of his retirement or disability allowance in a lesser retirement allowance payable throughout life with the provision that:

Member may elect.

Balance paid to beneficiary.

(a) **Option 1.** If he dies before he has received in payment of his annuity the amount of his accumulated contributions as they were at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board; or

Allowance paid to beneficiary.

(b) **Option 2.** Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

One-half paid to beneficiary.

(c) **Option 3.** Upon his death, one-half (1/2) of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nomin-

HeinOnline -- 1971 vol. I 462 1971

ate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

(d) **Option 4.** Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement, except such other benefit or benefits, together with the lesser retirement allowance shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board." Payment—other benefits.

Section 3. Section 75-6213, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-6213. **Creditable service for out-of-state employment and before September, 1937.** Any person applying for membership also may apply for creditable service in the retirement system for out-of-state employment service that would have been acceptable under the provisions of this title if such service were performed in the state of Montana. The person shall be awarded creditable service, conditional upon his completing five (5) years of active membership in Montana, for the number of years the retirement board determines to be creditable service but for not more than five (5) years, if he contributes to the retirement system an amount equal to five percent (5%) of his first year's salary earned in Montana for each year of creditable service *plus interest at the rate the contribution would have earned had the contribution been in his account upon the completion of five (5) years of membership service in Montana.* The contributions may be a lump sum payment or in installments as agreed between the person and the retirement board. Application for creditable service. Out-of-state employment. Award conditions. Interest rate. Lump sum or installments.

Whenever a member is retiring with at least ten (10) years of creditable service and he has been an active member for at least five (5) consecutive school fiscal years, he may request creditable service for any employment service he rendered prior to the first day of September, nineteen hundred and thirty-seven (1937) for which he has not received a prior service certificate. In order to receive such creditable service, he shall apply for it and provide certification of such service. The retirement board shall determine the amount of creditable service to be awarded, if any, and issue a prior service certificate." Conditions of application for other creditable service. Certification. Prior service certificate.

Approved February 20, 1971

HeinOnline -- 1971 vol. I 463 1971

CHAPTER NO. 58

An Act to Amend Section 64-207.1, R.C.M. 1947, Relating to the Opportunity of a Publisher of Libelous or Defamatory Matter to Correct the Same, by Adding Cable Television Systems to the List of Such Publishers: Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 64-207.1, R.C.M. 1947, is amended to read as follows:

"64-207.1. **Notice in writing to publisher of libelous or defamatory matter—opportunity to correct—defense and mitigation of damages.** Before any civil action shall be commenced on account of any libelous or defamatory publication in any newspaper, magazine, periodical, radio or television station, *or cable television system,* the libeled person shall first give those alleged to be responsible or liable for the publication a reasonable opportunity to correct the libelous or defamatory matter. Such opportunity shall be given by notice in writing specifying the article and the statements therein which are claimed to be false and defamatory and a statement of what are claimed to be the true facts. The notice may also state the sources, if any, from which the true facts may be ascertained with definiteness and certainty. The first issue of a newspaper, magazine or periodical published after the expiration of one week from the receipt of such notice shall be within a reasonable time for correction. In the case of radio and television stations *and cable television systems* a broadcast made at the same time of day as the broadcast complained of and of at least equal duration, which is made within seven (7) days following receipt of such notice shall be within a reasonable time for correction. To the extent that the true facts are, with reasonable diligence, ascertainable with definiteness and certainty, only a retraction shall constitute a correction; otherwise the publication of the libeled person's statement of the true facts, or so much thereof as shall not be libelous of another, scurrilous, or otherwise improper for publication, published as his statement, shall constitute a correction within the meaning of this section. If it shall appear upon trial that the publication was made under honest mistake or mis-

Prior to civil action.

Libeled person shall give opportunity to correct.

Notice in writing.

Reasonable time defined.

Radio and television.

7 days.

Retraction.

Correction defined.

Trial.

HeinOnline -- 1971 vol. I 464 1971

apprehension, then a correction, timely published, without comment, in a position and type as prominent as the alleged libel, or in a broadcast made at the same time of day as the broadcast complained of and of at least equal duration, shall constitute a defense against the recovery of any damages except actual damages, as well as being competent and material in mitigation of actual damages to the extent the correction published does so mitigate them." Publication of correction. Defense. Mitigation.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 20, 1971.

CHAPTER NO. 59

An Act to Amend Section 23-3318, R.C.M. 1947, by Providing for Filing of Certificates of Nomination by Candidates for Municipal Offices; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 23-3318, R.C.M. 1947, is amended to read as follows: Amending clause.

"23-3318. **Certificates of nomination by individuals or parties not appearing on prior ballot—requisites—applicability.** Except as provided in subsection (6) of this section, nominations for public office by an individual or a political party which did not appear on the ballot in the next preceding election may be made by executing a certificate of nomination. Nominations for public office. Certificate requirements.

(1) The certificate must be in writing and contain:

(a) The name of a candidate for the office to be filled;

(b) His residence, his occupation, and his business address.

(2) If a certificate is filed by a political party which did not appear on the ballot in the next preceding election, it must contain the party name and in five (5) words or less the principle which such body represents. Political party.

HeinOnline -- 1971 vol. I 465 1971

Signed by electors.

(3) The certificate must be signed by electors residing within the state and district, or political division in which the officer or officers are to be elected. Each elector signing a certificate shall add to his signature, his place of residence, and his business address.

5% or more of vote.

(4) The number of signatures must be five percent (5%) or more of the total vote cast for the successful candidate for the same office at the next preceding election.

Filing 90 days prior to election.

(5) The candidates for nomination shall file the certificates ninety (90) days prior to the date of the general election. *Certificates of nomination of candidates for municipal offices must be filed with the clerks of the respective municipal corporations not more than thirty (30) days and not less than fifteen (15) days previous to the day of election.*

Municipal offices. Filing not more than 30—not less than 15 days.

Independent candidates. Certificate requirements.

(6) A person who desires to run for president or vice-president as an independent candidate, must file a certificate of nomination with the secretary of state. The certificate must have the signatures of electors equal to five percent (5%) or more of the legal votes cast for governor at the next preceding general election. He must also nominate the required number of electors allowable to Montana and certify the names to the secretary of state.

Exceptions.

(7) This section shall not apply to nominations for special elections or to fill vacancies.

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved February 24, 1971.

CHAPTER NO. 60

An Act to Provide a Period of Ten Years Within Which an Action for Damages Arising out of Certain Services or Work on Improvements to Real Property Must Be Commenced; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Limitation on actions.

Section 1. Except as provided in sections 2 and 3 of this act, no action to recover damages (other than an

HeinOnline -- 1971 vol. I 466 1971

action upon any contract, obligation, or liability, founded upon an instrument in writing) resulting from or arising out of the design, planning, supervision, inspection, construction, or observation of construction of, or land surveying done in connection with, any improvement to real property shall be commenced more than ten (10) years after completion of such improvement. 10 years.

Section 2. Notwithstanding the provisions of section 1 of this act, an action for such damages for an injury which occurred during the tenth year after such completion may be commenced within one (1) year after the occurrence of such injury. Exception.

Section 3. The limitation prescribed by this act shall not affect the responsibility of any owner, tenant, or person in actual possession and control of the improvement at the time a right of action arises. Limitation does not affect responsibility.

Section 4. As used in this act, the term "completion" means that degree of completion at which the owner can utilize the improvement for the purpose for which it was intended or when a completion certificate is executed, whichever is earlier. "Completion" defined.

Section 5. Nothing in this act shall be construed as extending the period prescribed by the laws of this state for the bringing of any action. Construction.

Section 6. In order to provide a reasonable period for commencement of any action for which a right of action has heretofore accrued, this act shall be effective January 1, 1972. Effective January 1, 1972.

Approved February 27, 1971.

CHAPTER NO. 61

An Act Providing for the Creation of a Confidential Relationship Between Student and School Personnel.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-701-4, R.C.M., 1947, is amended to read as follows: Amending clause.

"93-701-4. **Persons in certain relations cannot be exam-**

HeinOnline -- 1971 vol. I 467 1971

Privileged communications.

ined. There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person cannot be examined as a witness in the following cases:

Husband and wife.

1. A husband cannot be examined for or against his wife without her consent; nor a wife for or against her husband without his consent; nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other.

Attorney and client.

2. An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment.

Clergyman or priest and confessor.

3. A clergyman or priest cannot, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

Physician or surgeon and patient.

4. A licensed physician or surgeon cannot, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient, which was necessary to enable him to prescribe or act for the patient.

Public officer.

5. A public officer cannot be examined as to communications made to him in official confidence, when the public interests would suffer by the disclosure.

Psychologist and child.

6. Any person engaged in teaching psychology in any school, or who acting as such is engaged in the study and observation of child mentality, shall not without the consent of the parent or guardian of such child being so taught or observed testify in any civil action as to any information so obtained.

Counselor, psychologist, nurse or teacher in educational institution and student.

7. A counselor, psychologist, nurse, or teacher, employed by any educational institution, cannot be examined as to communications made to him in confidence by a duly registered student of such institution, provided however, that this provision shall not apply where consent has been

HeinOnline -- 1971 vol. I 468 1971

given by the student, if not a minor, or if he is a minor, by the student and his parent or legal guardian."

Approved February 27, 1971.

CHAPTER NO. 62

An Act to Amend Sections 4-114 and 4-121, R.C.M., 1947, Relating to the Hours State Liquor Stores Shall Be Open.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-114, R.C.M., 1947, is amended to read as follows: Amending clause.

"4-114. **Establishment of state liquor stores—hours—kinds and prices of liquor.** The board shall establish and maintain at the county seats and such other places as the board deems advisable, one or more stores to be known as "state liquor stores," for the sale of liquor in accordance with the provisions of this act and the regulations made thereunder; the stores shall be classified according to the volume of business which each store does each fiscal year; the volume of business to be used in figuring each store's classification shall be the volume of business done by the store to be classified during the immediate past fiscal year; stores shall be classified as follows: stores having done a business of four hundred and fifty thousand dollars ($450,000) or over during the immediate past fiscal year shall be "Class A" stores; stores having done a business of one hundred and forty thousand dollars ($140,000) and up to four hundred and fifty thousand dollars ($450,000) during the immediate past fiscal year shall be "Class B" stores; and all stores having done a business of less than one hundred and forty thousand dollars ($140,000) during the immediate past fiscal year shall be "Class C" stores; in opening new stores the board shall estimate the volume of business which said store will do the first year and classify said store according to the estimate of business; the board shall employ the necessary help to operate said stores and shall designate the duties to be performed by the employees; the board may, from time to

Board shall establish "state liquor stores."

Stores shall be classified.

Determination based on volume of business.

New stores.

Board shall employ help. Designate duties.

HeinOnline -- 1971 vol. I 469 1971

Fix prices. time, fix the prices at which the various classes, varieties and brands of liquor may be sold, and prices shall Determine business hours. be the same at all state stores. Such state liquor stores shall be and remain open during such period of the day Mandatory closing. as the board shall deem advisable, provided, however, that such stores shall be closed for the transaction of business *between the close of normal business Saturday p.m. through the opening of normal business Tuesday a.m. as set by board regulation and including* legal holidays, and election days."

Amending clause. Section 2. Section 4-121, R.C.M., 1947, is amended to read as follows:

Sales forbidden. "4-121. **When sales of liquor forbidden.** No sale or delivery of liquor shall be made on or from the premises of any state liquor store, nor shall any store be open for the sale of liquor

Holidays. (a) on any holiday;

National or state elections. (b) on any day on which polling takes place at any national or state election held in the electoral district in which the store is situated;

Municipal elections. (c) on any day on which polling takes place at any municipal election held in the municipality in which the store is situated;

Other days. (d) during such other period and on such other days as the board may direct."

Approved February 27, 1971.

CHAPTER NO. 63

A Bill to Provide a Guaranty Association for All Insurers, to Protect the Public from Insurer Insolvency and Providing for Assessment Among Association Members Under Certain Conditions.

Be it enacted by the Legislative Assembly of the State of Montana:

Montana insurance guaranty association act— Section 1. **Title.** This act shall be known and may be cited as the Montana insurance guaranty association act.

Purpose. Section 2. **Purpose.** The purpose of this act is to provide a mechanism for the payment of covered claims

HeinOnline -- 1971 vol. I 470 1971

under certain insurance policies to avoid excessive delay in payment and to avoid financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, and to provide an association to assess the cost of such protection among insurers.

Application.

Section 3. **Scope.** This act shall apply to all kinds of direct insurance, except life, title, surety, disability, credit, mortgage, guaranty and ocean marine insurance.

Liberal construction.

Section 4. **Construction.** This act shall be liberally construed to effect the purpose under section 2 which shall constitute an aid and guide to interpretation.

Definitions. "Association."

Section 5. **Definitions.** As used in this act, (1) "Association" means the Montana insurance guaranty association created under section 6 of this act.

"Commissioner."

(2) "Commissioner" means the commissioner of insurance of this state.

"Covered claim."

(3) "Covered claim" means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this act applies issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this act and (a) the claimant or insured is a resident of this state at the time of the insured event; or (b) the property from which the claim arises is permanently located in this state. "Covered claim" shall not include any amount due an reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise.

Exceptions.

"Insolvent insurer."

(4) "Insolvent insurer" means (a) an insurer authorized to transact insurance in this state either at the time the policy was issued or when the insured event occurred and (b) determined to be insolvent by a court of competent jurisdiction.

"Member insurer."

(5) "Member insurer" means any person who (a) writes any kind of insurance to which this act applies under section 3, including the exchange of reciprocal or interinsurance contracts, and (b) is licensed to transact insurance in this state.

"Net direct written premiums."

(6) "Net direct written premiums" means direct gross premiums written in this state on insurance policies to

HeinOnline -- 1971 vol. I 471 1971

which this act applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

Exception.

"Person."

(7) "Person" means any individual, corporation, partnership, association or voluntary organization.

Association created.

Authority to do business dependant on membership.

Section 6. **Creation of the association.** There is created a nonprofit unincorporated legal entity to be known as the Montana insurance guaranty association. All insurers defined as member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under a plan of operation established and approved under section 9 and shall exercise its powers through a board of directors established under section 7.

Board of directors.

5 to 9 persons.

Selection.

Approval.

Vacancies.

Appointment.

Section 7. **Board of directors.** (1) The board of directors of the association shall consist of not less than five (5) nor more than nine (9) persons serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the commissioneer. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments. If no members are selected within sixty (60) days after the effective date of this act, the commissioner may appoint the initial members of the board of directors.

Fair representation.

(2) In approving selections to the board, the commissioner shall consider among other things whether all member insurers are fairly represented.

Expenses.

(3) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors.

Section 8. **Powers and duties of the association.** (1) The association shall:

Obligations.

(a) Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty (30) days after the determination of insolvency, or before the policy expiration date if less than thirty (30) days after the determination, or before the insured replaces the policy or causes its cancellation, if he does so within thirty (30) days of the determina-

HeinOnline -- 1971 vol. I 472 1971

tion, but such obligation shall include only that amount of each covered claim which is in excess of one hundred dollars ($100) and is less than three hundred thousand ($300,000), except that the association shall pay the full amount of any covered claim arising out of a workman's compensation policy. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

Limitations on amount. $100 to $300,000.

Exceptions.

(b) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent.

Association deemed insurer.

(c) Assess insurers amounts necessary to pay the obligations of the association under paragraph (a) subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and the cost of examinations under section 13 and other expenses authorized by this act. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year bears to the net direct written premiums of all member insurers for the preceding calendar year. Each member insurer shall be notified of the assessment not later than thirty (30) days before it is due. No member insurer may be assessed in any year an amount greater than two percent (2%) of that member insurer's net direct written premiums for the preceding calendar year. If the maximum assessment, together with the other assets of the association does not provide in any one (1) year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer.

Assessments.

Expenses and costs.

Determination of assessments.

Notice 30 days before due. Limitation.

2% of net premiums.

Exemption or deferment.

Setoff.

HeinOnline -- 1971 vol. I 473 1971

Duties regarding claims.

(d) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested.

Notices.

(e) Notify such persons as the commissioner directs under section 10 (2) (a).

Servicing facilities.

(f) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

Reimbursements.

(g) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this act.

Employment of personnel.

(2) The association may: (a) Employ or retain such persons as are necessary to handle claims and perform other duties of the association.

Loans.

(b) Borrow funds necessary to effect the purposes of this act in accord with the plan of operation.

Suits.

(c) Sue or be sued.

Contracts.

(d) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this act.

Other authority.

(e) Perform such other acts as are necessary or proper to effectuate the purpose of this act.

Refunds.

(f) Refund to the member insurers in proportion to the contribution of each member insurer to the association that amount by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities of the association as estimated by the board of directors for the coming year.

Plan of operation.

Section 9. **Plan of operation.** (1) (a) The association shall submit to the commissioner a plan of opera-

HeinOnline -- 1971 vol. I 474 1971

tion and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the commissioner. Approval.

(b) If the association fails to submit a suitable plan of operation within ninety (90) days following the effective date of this act or if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this act. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. On failure to submit plan. Commissioner shall promulgate rules.

(2) All member insurers shall comply with the plan of operation. Compliance.

(3) The plan of operation shall: (a) Establish the procedures whereby all the powers and duties of the association under section 8 will be performed. Plan shall establish procedures.

(b) Establish procedures for handling assets of the association. Assets.

(c) Establish the amount and method of reimbursing members of the board of directors under section 7. Reimbursement.

(d) Establish procedures by which claims may be filed with the association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer shall be deemed notice to the association or its agent and a list of such claims shall be periodically submitted to the association or similar organization in another state by the receiver or liquidator. Claims. Notice.

(e) Establish regular places and times for meetings of the board of directors. Meetings.

(f) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors. Records.

(g) Provide that any member insurer aggrieved by any final action or decision of the association may appeal Appeal.

HeinOnline -- 1971 vol. I 475 1971

to the commissioner within thirty (30) days after the action or decision.

Directors. (h) Establish the procedures whereby selections for the board of directors will be submitted to the commissioner.

Other provisions. (i) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

Plan may provide for delegation of powers and duties. (4) The plan of operation may provide that any or all powers and duties of the association, except those under section 8 (1) (c) and 8 (2) (b), are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of any other functions of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this act.

Reimbursement.

Approval.

Section 10. **Duties and powers of the commissioner.**

Duties of commissioner. (1) The commissioner shall: (a) Notify the association of the existence of an insolvent insurer not later than three (3) days after he receives notice of the determination of the insolvency.

Notice.

Statements. (b) Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.

Powers. Require notice to insureds. (2) The commissioner may: (a) Require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this act. Such notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

By mail.

Publication.

Suspend or revoke certificates of authority. (b) Suspend or revoke, after notice and hearing the certificate of authority to transact insurance in this state

HeinOnline -- 1971 vol. I 476 1971

of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. Such fine shall not exceed five percent (5%) of the unpaid assessment per month, except that no fine shall be less than one hundred dollars ($100) per month.

Levy fines.

Limitations.

(c) Revoke the designation of any servicing facility if he finds claims are being handled unsatisfactorily.

Servicing facility.

(3) Any final action or order of the commissioner under this act shall be subject to judicial review in a court of competent jurisdiction.

Judicial review.

Section 11. **Effect of paid claims.** (1) Any person recovering under this act shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the association. Every insured or claimant seeking the protection of this act shall cooperate with the association to the same extent as such person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association shall not operate to reduce the liability of insured's to the receiver, liquidator, or statutory successor for unpaid assessments.

Assignment of rights.

Cooperation required.

Limitation—causes of action.

(2) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this act against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

Settlements binding.

Priority of claims.

Expenses.

(3) The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which

Statements of claims.

HeinOnline -- 1971 vol. I 477 1971

shall preserve the rights of the association against the assets of the insolvent insurer.

Section 12. **Nonduplication of recovery.** (1) Any person having a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer which is also a covered claim, shall be required to exhaust first his right under such policy. Any amount payable on a covered claim under this act shall be reduced by the amount of any recovery under such insurance policy.

Rights under policy.

Order of recovery.

(2) Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured except that if it is a first party claim for damage to property with a permanent location, he shall seek recovery first from the association of the location of the property, and if it is a workmen's compensation claim, he shall seek recovery first from the association of the residence of the claimant. Any recovery under this act shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.

Duty to inform of insolvency.

Section 13. **Prevention of insolvencies.** (1) It shall be the duty of the board of directors, upon majority vote, to notify the commissioner of any information indicating any member insurer may be insolvent or in a financial condition hazardous to the policyholders or the public.

Board may request examination.

(2) The board of directors may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be in a financial condition hazardous to the policyholders or the public. Within thirty (30) days of the receipt of such request, the commissioner shall begin such examination. The examination may be conducted as a national association of insurance commissioners examination or may be conducted by such persons as the commissioner designates. The cost of such examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying

Conduct.

Costs.

HeinOnline -- 1971 vol. I 478 1971

with subsection (3). The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it shall not be open to public inspection prior to the release of the examination report to the public.

Notice.

Release to public.

(3) It shall be the duty of the commissioner to report to the board of directors when he has reasonable cause to believe that any member insurer examined or being examined at the request of the board of directors may be insolvent or in a financial condition hazardous to the policyholders or the public.

Duty of commissioner to report insolvency.

(4) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer. Such reports and recommendations shall not be considered public documents.

Reports and recommendations.

(5) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

Insurer insolvencies.

(6) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based on the information available to the association, and submit such report to the commissioner.

Report on insolvency.

Section 14. **Examination of the association.** The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

Annual report.

Section 15. **Tax exemption.** The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions except taxes levied on real or personal property.

Tax exemption.

Section 16. **Recognition of assessments in rates.** The rates and premiums charged for insurance policies to which this act applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the associa-

Premium rates may allow for recoupment.

HeinOnline -- 1971 vol. I 479 1971

tion by the member insurer less any amounts returned to the member insurer by the association and such rates shall not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer.

Immunity from liability.

Section 17. **Immunity.** There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer, the association or its agents or employees, the board of directors, or the commissioner or his representatives for any action taken by them in the performance of their powers and duties under this act.

Stay of proceedings.

Section 18. **Stay of proceedings; reopening of default judgments.** All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in this state shall be stayed for sixty (60) days from the date the insolvency is determined to permit proper defense by the association of all pending causes of action.

60 days.

Default judgments.

As to any covered claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, the association either on its own behalf or on behalf of such insured may apply to have such judgment, order, decision, verdict or finding set aside by the same court or administrator that made such judgment, order, decision, verdict or finding and shall be permitted to defend against such claim on the merits.

Application to set aside.

Defend on merits.

Approved February 27, 1971.

CHAPTER NO. 64

An Act to Provide for Control and Regulation of the Affairs of Insurance Holding Companies; Prescribe Rules and Regulations Governing Acquisition and Disposal of Insurance Holding Companies; Subjecting Domestic Insurers to Examination by the Insurance Department; Providing for Application to be Made to the Insurance Commissioner to Approve Certain Transactions; Providing for Judicial Review; Defining Terms;; and Providing Penalties; Repealing Sections 40-5501 through 40-5508, R.C.M., 1947.

HeinOnline -- 1971 vol. I 480 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** As used in this article, the following terms shall have the respective meanings hereinafter set forth, unless the context shall otherwise require: Definitions.

(a) **Affiliate.** An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. "Affiliate." "Affiliated."

(b) **Commissioner.** The term "commissioner" shall mean the insurance commissioner, his deputies, or the insurance department, as appropriate. "Commissioner."

(c) **Control.** The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by section 4 (i) that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect. "Control." "Controlling." "Controlled by." "Under common control with." Presumption. Rebuttal. Determination by commissioner.

(d) **Insurance holding company system.** An "insurance holding company system" consists of two (2) or more affiliated persons, one (1) or more of which is an insurer. "Insurance holding company system."

(e) **Insurer.** The term "insurer" shall have the same meaning as set forth in section 40-2603, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state. "Insurer."

HeinOnline -- 1971 vol. I 481 1971

"Person." (f) **Person.** A "person" is an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function.

"Security holder." (g) **Securityholder.** A "securityholder" of a specified person is one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

"Subsidiary." (h) **Subsidiary.** A "subsidiary" of a specified person is an affiliate controlled by such person directly, or indirectly through one (1) or more intermediaries.

"Voting security." (i) **Voting security.** The term "voting security" shall include any security convertible into or evidencing a right to acquire a voting security.

Section 2. **Subsidiaries of insurers.** (a) **Authorization.** Any domestic insurer, either by itself or in cooperation with one (1) or more persons, may organize or acquire one (1) or more subsidiaries engaged in the following kinds of business:

Domestic insurer may organize subsidiaries.

Kinds of business enumerated.

(1) Any kind of insurance business authorized by the jurisdiction in which it is incorporated.

(2) Acting as an insurance broker or as an insurance agent for its parent or for any of its parent's insurer subsidiaries.

(3) Investing, reinvesting or trading in securities for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

(4) Management of any investment company subject to or registered pursuant to the Investment Company Act of 1940, as amended, including related sales and services.

(5) Acting as a broker-dealer subject to or registered pursuant to the Securities Exchange Act of 1934, as amended.

(6) Rendering investment advice to governments, government agencies, corporations or other organizations or groups.

HeinOnline -- 1971 vol. I 482 1971

(7) Rendering other services related to the operations of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal and collection services.

(8) Ownership and management of assets which the parent corporation could itself own or manage.

(9) Acting as administrative agent for a governmental instrumentality which is performing an insurance function.

(10) Financing of insurance premiums, agents and other forms of consumer financing.

(11) Any other business activity determined by the commissioner to be reasonable ancillary to an insurance business.

(12) Owning a corporation or corporations engaged or organized to engage exclusively in one (1) or more of the businesses specified in this section.

(b) **Additional investment authority.** In addition to investments in common stock, preferred stock, debt obligations and other securities permitted under all other sections of this chapter, a domestic insurer may also:

Authorized investments.

(1) Invest, in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiaries, amounts which do not exceed the lesser of five percent (5%) of such insurer's assets or fifty percent (50%) of such insurer's surplus as regards policyholders, provided that after such investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments, there shall be included total net monies or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities, and all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation.

Subsidiary securities—limitations on amounts.

Calculation.

HeinOnline -- 1971 vol. I 483 1971

Liabilities less than 10% of assets.

(2) If the insurer's total liabilities, as calculated for national association of insurance commissioners annual statement purposes, are less than ten percent (10%) of assets, invest any amount in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiaries, provided that, after such investment, the insurer's surplus as regards policyholders, considering such investment as if it were a disallowed asset, will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

Reasonable surplus.

Subsidiary limitation of investments.

(3) Invest any amount in common stock, preferred stock, debt obligations and other securities of one (1) or more subsidiaries provided that each such subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in this clause, "the total investment of the insurer" shall include:

Investments included.

(i) Any direct investment by the insurer in an asset.

(ii) The insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership of such subsidiary.

Approval of commissioner.

(4) With the approval of the commissioner, invest any amount in common stock, preferred stock, debt obligations, or other securities of one (1) or more subsidiaries, provided that after such investment, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

Reasonable surplus.

Subsidiary.

Management of property.

(5) Invest any amount in the common stock, preferred stock, debt obligations, or other securities of any subsidiary exclusively engaged in holding title to or holding title to and managing or developing real or personal property, if after considering as a disallowed asset so much of the investment as is represented by subsidiary assets which if held directly by the insurer would be considered as a disallowed asset, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, and if following such investment all voting securities of such subsidiary would be owned by the insurer.

Reasonable surplus.

HeinOnline -- 1971 vol. I 484 1971

(c) **Exemption from investment restrictions.** Investments in common stock, preferred stock, debt obligations or other securities of subsidiaries made pursuant to subsection (b) hereof shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in this chapter applicable to such investments of insurers. Exemptions.

(d) **Qualification of investment — when determined.** Whether any investment pursuant to subsection (b) meets the applicable requirements thereof is to be determined immediately after such investment is made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the date they were made. Determination of qualified investments.

(e) **Cessation of control.** If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three (3) years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after such investment shall have been made, such investment shall have met the requirements for investment under any other section of this chapter, and the insurer has notified the commissioner thereof. Disposal on cessation of control.

Section (3). **Acquisition of control of or merger with domestic insurer.** (a) **Filing requirements.** No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly (or by conversion or by exercise of any right to acquire) be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time any such offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved, such person has filed with the commissioner and has sent to such insurer, and such insurer has sent to its shareholders, a statement containing the information required by this section and such offer, request, invitation, agreement or acquisition has been approved by the commissioner in the manner herein- Acquisition of control limited to issuer. Merger or control. Required filing. Statement.

HeinOnline -- 1971 vol. I 485 1971

Domestic insurer defined.

after prescribed. For purposes of this section, a domestic insurer shall include any other person controlling a domestic insurer unless such other person is either directly or through its affiliates primarily engaged in business other than the business of insurance.

Statement made under oath.

Mandatory information.

(b) **Content of statement.** The statement to be filed with the commissioner hereunder shall be made under oath or affirmation and shall contain the following information:

"Acquiring party."

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (a) is to be effected (hereinafter called "acquiring party").

Occupation.

(i) If such person is an individual, his principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten years.

Business operations.

(ii) If such person is not an individual, a report of the nature of its business operations during the past five (5) years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by paragraph (i) of this subsection.

Consideration.

(2) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration, provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests.

Financial information.

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five (5) fiscal years of each such ac-

HeinOnline -- 1971 vol. I 486 1971

quiring party (or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence), and similar unaudited information as of a date not earlier than ninety (90) days prior to the filing of the statement.

Plans for proposals.

(4) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

Number of shares.

(5) The number of shares of any security referred to in subsection (a) which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement or acquisition referred to in subsection (a), and a statement as to the method by which the fairness of the proposal was arrived at.

Amount of each class.

(6) The amount of each class of any security referred to in subsection (a) which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

Description of transactions.

(7) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection (a) in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

Description of purchases.

(8) A description of the purchase of any security referred to in subsection (a) during the twelve (12) calendar months preceding the filing of the statement, by an acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor.

Description of recommendations to purchase.

(9) A description of any recommendations to purchase any security referred to in subsection (a) made during the twelve (12) calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of such acquiring party.

HeinOnline -- 1971 vol. I 487 1971

Copies of all tenders.

(10) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (a), and (if distributed) of additional soliciting material relating thereto.

Broker-dealer contracts.

(11) The terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of securities referred to in subsection (a) for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

Other information.

(12) Such additional information as the commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders and securityholders of the insurer or in the public interest.

Commissioner may require information from each person.

If the person required to file the statement referred to in subsection (a) is a partnership, limited partnership, syndicate or other group, the commissioner may require that the information called for by clauses (1) through (12) shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member or person is a corporation or the person required to file the statement referred to in subsection (a) is a corporation, the commissioner may require that the information called for by clauses (1) through (12) shall be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent (10%) of the outstanding voting securities of such corporation.

Amendments.

If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the commissioner and sent to such insurer within two (2) business days after the person learns of such change. Such insurer shall send such amendment to its shareholders.

Filing.

Alternative documents.

(c) **Alternative filing materials.** If any offer, request, invitation, agreement or acquisition referred to in subsection (a) is proposed to be made by means of a regis-

HeinOnline -- 1971 vol. I 488 1971

tration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (a) may utilize such documents in furnishing the information called for by that statement.

Use.

(d) **Approval by commissioner — hearings.** (1) The commissioner shall approve any merger or other acquisition of control referred to in subsection (a) unless, after a public hearing thereon, he finds that:

Public hearing—approval.

Determinations by commissioner.

(i) After the change of control the domestic insurer referred to in subsection (a) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed.

(ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein.

(iii) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining securityholders who are unaffiliated with such acquiring party.

(iv) The terms of the offer, request, invitation, agreement or acquisition referred to in subsection (a) are unfair and unreasonable to the securityholders of the insurer.

(v) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest.

(vi) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control.

(2) The public hearing referred to in clause (1) shall be held within thirty (30) days after the statement re-

Hearing within 20 days of filing.

HeinOnline -- 1971 vol. I 489 1971

quired by subsection (a) is filed, and at least twenty (20) days notice thereof shall be given by the commissioner to the person filing the statement. Not less than seven (7) days notice of such public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the commissioner. The insurer shall give such notice to its securityholders.

Notices required.

Decision within 30 days.

The commissioner shall make a determination within thirty (30) days after the conclusion of such hearing. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the district court of this state. All discovery proceedings shall be concluded not later than three (3) days prior to the commencement of the public hearing.

Rights at hearing.

Discovery proceedings.

(e) **Mailing to shareholders — payment of expenses.** All statements, amendments, or other material filed pursuant to subsection (a) or (b), and all notices of public hearings held pursuant to subsection (d), shall be mailed by the insurer to its shareholders within five (5) business days after the insurer has received such statements, amendments, other material, or notices. The expenses of mailing shall be borne by the person making the filing. As security for the payment of such expenses, such person shall file with the commissioner an acceptable bond or other deposit in an amount to be determined by the commissioner.

Required mailing to shareholders.

Expenses.

Bond or deposit.

(f) **Exemptions.** The provisions of this section shall not apply to:

Exemptions.

(i) Any offers, requests, invitations, agreements or acquisitions by the person referred to in subsection (a) of any voting security referred to in subsection (a) which, immediately prior to the consummation of such offer, request, invitation, agreement or acquisition, was not issued and outstanding.

Unissued securities.

(ii) Any offer, request, invitation, agreement or acquisition which the commissioner by order shall exempt therefrom as (1) not having been made or entered into for

By order of commissioner.

HeinOnline -- 1971 vol. I 490 1971

the purpose and not having the effect of changing or influencing the control of a domestic insurer, or (2) as otherwise not comprehended within the purposes of this section.

(g) **Violations.** The following shall be violations of this section: Violations.

(i) The failure to file any statement, amendment, or other material required to be filed pursuant to subsection (a) or (b). Failure to file.

(ii) The effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the commissioner has given his approval thereto. No approval.

(h) **Jurisdiction — consent to service of process.** The courts of this state are hereby vested with jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the commissioner under this section, and over all actions involving such person arising out of violations of this section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by such a person of the commissioner to be his true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding arising out of violations of this section. Copies of all such lawful process shall be served on the commissioner and transmitted by registered or certified mail by the commissioner to such person at his last known address. Jurisdiction. Commissioner is attorney for service of process. Procedure.

Section 4. **Registration of insurers.** (a) **Registration.** Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this section. Any insurer which is subject to registration under this section shall register within sixty (60) days after the effective date of this article or fifteen (15) days after it becomes subject to registration, whichever is later, unless the commissioner for good cause shown extends the time for registration, Mandatory registration. Exceptions. Within 60 days. Within 15 days.

HeinOnline -- 1971 vol. I 491 1971

Extension. Commissioner may require copy of out-of-state registration.

and then within such extended time. The commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by such insurance company with the insurance regulatory authority of domiciliary jurisdiction.

Forms.

(b) **Information and form required.** Every insurer subject to registration shall file a registration statement on a firm provided by the commissioner, which shall contain current information about:

Required information.

(i) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer.

(ii) The identity of every member of the insurance holding company system.

(iii) The following agreements in force, relationships subsisting, and transactions currently outstanding between such insurer and its affiliates:

(1) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates.

(2) Purchases, sales, or exchanges of assets.

(3) Transactions not in the ordinary course of business.

(4) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business.

(5) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles.

(6) Reinsurance agreements covering all or substantially all of one (1) or more lines of insurance of the ceding company.

(iv) All matters concerning transactions between registered insurers and any affiliates as may be included

HeinOnline -- 1971 vol. I 492 1971

from time to time in any registration forms adopted or approved by the commissioner.

Information not deemed material.

(c) **Materiality.** No information need be disclosed on the registration statement filed pursuant to section 4 (b) if such information is not material for the purposes of this section. Unless the commissioner by rule, regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments, involving one-half (1/2) of one percent (1%) or less of an insurer's admitted assets as of the 31st day of December next preceding shall not be deemed material for purposes of this section.

Amendments.

Forms.

(d) **Amendments to registration statements.** Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the commissioner within fifteen (15) days after the end of the month in which it learns of each such change or addition, provided, however, that subject to subsection (c) of section 5, each registered insurer shall so report all dividends and other distributions to shareholders within two (2) business days following the declaration thereof.

Termination.

(e) **Termination of registration.** The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

Consolidated registration.

(f) **Consolidated filing.** The commissioner may require or allow two (2) or more affiliated insurers subject to registration hereunder to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

Insurer may register for affiliate.

(g) **Alternative registration.** The commissioner may allow an insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (a) and to file all information and material required to be filed under this section.

Exemptions.

(h) **Exemptions.** The provisions of this section shall not apply to any insurer, information or transaction if

HeinOnline -- 1971 vol. I 493 1971

and to the extent that the commissioner by rule, regulation, or order shall exempt the same from the provisions of this section.

Filing disclaimer of affiliation.

(i) **Disclaimer.** Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the commissioner disallows such a disclaimer. The commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.

Effect.

Disallowance after hearing.

Violation.

(j) **Violations.** The failure to file a registration statement or any amendment thereto required by this section within the time specified for such filing shall be a violation of this section.

Section 5. **Standards.** (a) **Transactions with affiliates.** Material transactions by registered insurers with their affiliates shall be subject to the following standards:

Required standards.

Terms.

(1) The terms shall be fair and reasonable.

Accounts.

(2) The books, accounts and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions.

Reasonable surplus.

(3) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) **Adequacy of surplus.** For purposes of this article, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

Determination of adequacy.

Size.

(1) The size of the insurer as measured by its assets,

HeinOnline -- 1971 vol. I 494 1971

capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria.

(2) The extent to which the insurer's business is diversified among the several lines of insurance. Diversification.

(3) The number and size of risks insured in each line of business. Risks.

(4) The extent of the geographical dispersion of the insurer's insured risks. Dispersion.

(5) The nature and extent of the insurer's reinsurance program. Reinsurance.

(6) The quality, diversification, and liquidity of the insurer's investment portfolio. Investments.

(7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders. Trend in surplus.

(8) The surplus as regards policyholders maintained by other comparable insurers. Comparability.

(9) The adequacy of the insurer's reserves. Reserves.

(10) The quality and liquidity of investments in subsidiaries made pursuant to section 3. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in his judgment such investment so warrants. Investments in subsidiaries.

(c) **Dividends and other distributions.** No insurer subject to registration under section 6 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty (30) days after the commissioner has received notice of the declaration thereof and has not within such period disapproved such payment, or the commissioner shall have approved such payment within such thirty (30) day period. Approval prior to payment of extra dividends. 30 day notice. Approval within 30 days.

For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve (12) months exceeds the greater of ten percent (10%) of such insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or the net gain from operations of such insurer, Extraordinary dividend defined.

HeinOnline -- 1971 vol. I 495 1971

if such insurer is a life insurer, or the net investment income, if such insurer is not a life insurer, for the twelve (12) month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

Declaration.

Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until the commissioner has approved the payment of such dividend or distribution or the commissioner has not disapproved such payment within the thirty (30) day period referred to above.

Approval.

Section 6. **Examination.** (a) **Power of commissioner.** Subject to the limitation contained in this section and in addition to the powers which the commissioner has under sections 40-2713, 40-2714, 40-2715, 40-2716, 40-2717, R.C.M., 1947, relating to the examination of insurers, the commissioner shall also have the power to order any insurer registered under section 4 to produce such records, books, or other information papers in the possession of the insurer or its affiliates as shall be necessary to ascertain the financial condition or legality of conduct of such insurer. In the event such insurer fails to comply with such order, the commissioner shall have the power to examine such affiliates to obtain such information.

Power to order production of records.

Power to examine.

Limitation.

(b) **Purpose and limitation of examination.** The commissioner shall exercise his power under subsection (a) above only if the examination of the insurer is inadequate or the interests of the policyholders of such insurer may be adversely affected.

Retainers.

(c) **Use of consultants.** The commissioner may retain at the registered insurer's expense such attorneys, actuaries. accountants and other experts not otherwise a part of the commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under subsection (a) above. Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

Expenses.

(d) **Expenses.** Each registered insurer producing for examination records, books and papers pursuant to subsection (a) above shall be liable for and shall pay the expense of such examination.

HeinOnline -- 1971 vol. I 496 1971

Section 7. **Confidential treatment.** All information, documents and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 6 and all information reported pursuant to section 4, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event he may publish all or any part thereof in such manner as he may deem appropriate.

Confidential information.

Not subject to subpoena.

Consent.

Hearing.

Publication.

Section 8. **Rules and regulations.** The commissioner may, upon notice and opportunity for all interested persons to be heard, issue such rules, regulations, and orders as shall be necessary to carry out the provisions of this article.

Rules.

Section 9. **Injunctions — prohibitions against voting securities — sequestration of voting securities.** (a) **Injunctions.** Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed or is about to commit a violation of this article or of any rule, regulation, or order issued by the commissioner hereunder, the commissioner may apply to the district court for the county in which the principal office of the insurer is located or if such insurer has no such office in this state then to the district court for Lewis and Clark county for an order enjoining such insurer or such director, officer, employee or agent thereof from violating or continuing to violate this article or any such rule, regulation or order, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors and shareholders or the public may require.

Commissioner may seek injunction.

(b) **Voting of securities — when prohibited.** No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of this article or of any rule, regulation or order issued by the commissioner hereunder may be voted at any shareholders' meet-

Limitations on voting rights.

HeinOnline -- 1971 vol. I 497 1971

ing, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though such securities were not issued and outstanding; but no action taken at any such meeting shall be invalidated by the voting of such securities, unless the action would materially affect control of the insurer or unless the courts of this state have so ordered. If an insurer or the commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this article or of any rule, regulation or order issued by the commissioner hereunder the insurer or the commissioner may apply to the district court for Lewis and Clark county or to the district court for the county in which the insurer has its principal place of business to enjoin any offer, request, invitation, agreement or acquisition made in contravention of section 5 or any rule, regulation, or order issued by the commissioner thereunder to enjoin the voting of any security so acquired, to void any vote of such security already cast at any meeting of shareholders, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors and shareholders or the public may require.

Insurer or commissioner may seek injunction.

(c) **Sequestration of voting securities.** In any case where a person has acquired or is proposing to acquire any voting securities in violation of this article or any rule, regulation or order issued by the commissioner hereunder, the district court for Lewis and Clark county or the district court for the county in which the insurer has its principal place of business may, on such notice as the court deems appropriate, upon the application of the insurer or the commissioner seize or sequester any voting securities of the insurer owned directly or indirectly by such person, and issue such orders with respect thereto as may be appropriate to effectuate the provisions of this article. Notwithstanding any other provisions of law, for the purposes of this article the situs of the ownership of the securities of domestic insurers shall be deemed to be in this state.

District court may sequester voting securities.

Situs of ownership.

Section 10. **Criminal proceedings.** Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of this article, the commissioner may cause criminal proceedings to be instituted by the district court for

Willful violations.

HeinOnline -- 1971 vol. I 498 1971

the county in which the principal office of the insurer is located or if such insurer has no such office in the state, then by the district court for Lewis and Clark county against such insurer or the responsible director, officer, employee or agent thereof. Any insurer which willfully violates this article may be fined not more than five thousand dollars ($5,000). Any individual who willfully violates this article may be fined not more than five hundred dollars ($500) or, if such willful violation involves the deliberate perpetration of a fraud upon the commissioner, imprisoned not more than two (2) years or both.

Penalties.

Section 11. **Receivership.** Whenever it appears to the commissioner that any person has committed a violation of this article which so impairs the financial condition of a domestic insurer as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders or the public, then the commissioner may proceed to take possession of the property of such domestic insurer and to conduct the business thereof.

Power to take possession.

Section 12. **Revocation, suspension, or nonrenewal of insurer's license.** Whenever it appears to the commissioner than any person has committed a violation of this article which makes the continued operation of an insurer contrary to the interests of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard, determine to suspend, revoke or refuse to renew such insurer's license or authority to do business in this state for such period as he finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

Power to suspend, revoke or not renew licenses.

Section 13. **Judicial review — mandamus.** (a) Any person aggrieved by any act, determination, rule, regulation or order or any other action of the commissioner pursuant to this article may appeal therefrom to the district court for Lewis and Clark county. The court shall conduct its review without a jury and by trial de novo, except that if all parties, including the commissioner, so stipulate, the review shall be confined to the record. Portions of the record may be introduced by stipulation into evidence in a trial de novo as to those parties so stipulating.

Appeal.

Trial de novo.

HeinOnline -- 1971 vol. I 499 1971

Stay of proceedings.

(b) The filing of an appeal pursuant to this section shall stay the application of any such rule, regulation, order or other action of the commissioner to the appealing party unless the court, after giving such party notice and an opportunity to be heard, determines that such a stay would be detrimental to the interests of policyholders, shareholders, creditors or the public.

Petition for writ of mandamus.

(c) Any person aggrieved by any failure of the commissioner to act or make a determination required by this article may petition the district court for Lewis and Clark county for a writ in the nature of a mandamus or a peremptory mandamus directing the commissioner to act or make such determination forthwith.

Laws superseded.

Section 14. **Conflict with other laws.** All laws and parts of laws of this state inconsistent with this article are hereby superseded with respect to matters covered by this article.

Severability clause.

Section 15. **Separability of provisions.** If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and for this purpose the provisions of this article are separable.

Approved February 27, 1971

CHAPTER NO. 65

An Act to Amend Section 87-117, R.C.M., 1947, to Increase the Per Diem Pay of Members of the Employment Security Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87-117, R.C.M., 1947, is amended to read as follows:

Employment security commission created.

Three members—appointment.

"87-117. **Employment security commission—organization.** There is hereby created a commission to be known as the employment security commission of Montana. The commission shall consist of three (3) members who shall be appointed by the governor by and with the advice and consent of the senate. Two (2) of the members of

HeinOnline -- 1971 vol. I 500 1971

the commission shall be from different political parties and shall serve for terms of four (4) years, provided, however, that one (1) of those first appointed after this act takes effect shall serve for a term of two (2) years. They shall serve on a per diem basis and shall be paid at the rate of *twenty dollars ($20)* per day of service plus actual and necessary expenses, provided, however, that the total per diem compensation in any one (1) year for each of said two (2) members shall not exceed the sum of *one thousand dollars ($1,000)*. The third member of the commission, who shall be designated as a chairman at the time of his appointment, shall be paid a full-time salary in an amount to be fixed by the governor and shall be the executive director. During his term of membership on the commission, no member shall serve as an officer or committee member of any political party organization. The governor may, at any time, after notice and hearing, remove any commissioner for neglect of duty, malfeasance, misfeasance, or nonfeasance in office."

Term of office.

$20 per day.

Limitation $1,000 per year.

Chairman.

Salary.

Limitation.

Governor may remove for cause.

Approved February 27, 1971.

CHAPTER NO. 66

An Act to Amend Sections 11-1814 and 16-3705, R.C.M., 1947, to Provide for the Waiving of Residency Requirements for Police Officers, Deputy Sheriffs or Marshals.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-1814, R.C.M., 1947, is amended to read as follows:

Amending clause.

"11-1814. **Qualifications of policemen.** The members of a police department of any city, at the time of their appointment under this act, shall not be less than twenty-one years of age nor more than forty years of age, provided, however, that any city council shall have the power by ordinances duly passed and approved to retire any police officer on half pay, who shall have arrived at the age of sixty-five years, or who shall have served continuously as a police officer for a period of not less than twenty-five years, or who shall have become incapacitated to perform the duties of his office by reason of

Qualifications for policemen.

21 to 40 years of age.

Power to retire at 65.

25 years service.

Disabled.

HeinOnline -- 1971 vol. I 501 1971

injury or accident sustained while actually engaged in the performance of his duties as an officer.

Citizen. Residency.

In every case a police officer must be a citizen of the United States, must have resided in the state of Montana at least two years, and have been a resident of the city or town in which he is appointed at least six (6) months prior to such appointment, such qualifications also to apply to every officer on the eligible list, at the time he shall be transferred to the active list. *Provided, however, that the police commission may, in its discretion, waive residency requirements.*

Discretionary waiver.

Every police officeer must be able to speak and write understandingly the English language."

Amending clause.

Section 2. Section 16-3705, R.C.M., 1947, is amended to read as follows:

Qualifications for special deputies.

"16-3705. **Qualifications of deputy sheriffs, marshals and policemen.** (1) No sheriff of a county, mayor of a city, or other persons authorized by law to appoint special deputies, marshals, or policemen in this state to preserve the public peace and prevent or quell public disturbance, shall hereafter appoint as such special deputies, marshals, or policemen any person who shall not have resided continuously in this state for a period of one year at least, and in the county where such appointment is made for the period of at least six (6) months prior to the date of said appointment; provided, that the provisions of this section shall not apply in cases of such officers summoning a posse forthwith to quell public disturbance or domestic violence. *And provided further, that the person or body authorized by law to appoint special deputies, marshals, or policemen may, in its discretion, waive residency requirements.*

Residency.

Exception.

Discretionary waiver.

Qualifications for deputies.

(2) No sheriff of a first, second and third class county shall employ as a deputy any individual who does not possess all the following qualifications:

(a) graduate of an accredited high school or the equivalent thereof;

(b) good moral character;

(c) never been convicted of a felony;

(d) has not within five (5) years immediately pre-

HeinOnline -- 1971 vol. I 502 1971

ceding his date of employment been affiliated in any manner with a subversive organization;

(e) been examined by a physician licensed to practice in the state of Montana within thirty (30) days immediately preceding his date of employment and has been pronounced in good physical condition.

Exceptions.

Subsection (2) of this section shall not be applicable to any deputy sheriff of a first, second or third class county whose term of employment commenced prior to the effective date of this act.

One-year probationary period.

(3) Any person whose term of employment as a deputy sheriff of a first, second or third class county commences subsequent to the effective date of this act shall serve a one-year probationary period and that during this one-year period the employment of any such deputy may be terminated by the sheriff with or without cause and without recourse to the sheriff under the terms of this act.

Academy attendance required.

(4) It shall be the duty of the sheriff of a first, second or third class county to cause all deputies whose term of employment commenced subsequent to the effective date of this act to attend that academy provided for by chapter 52, Title 75, R.C.M. 1947, except that the sheriff may accept reasonable delays in attendance at the academy as shown by the deputy's declared intention of attending. Failure to satisfactorily complete the course offered by said academy shall be deemed cause to terminate a deputy's employment.

Causes for removal.

(5) Any deputy sheriff of a first, second or third class county now employed or that may hereafter be employed shall continue in service until relieved of his employment in the manner hereinafter provided and only for one or more of the following specified causes:

(a) conviction of a felony subsequent to the commencement of such employment;

(b) willful disobedience of an order or orders given by the sheriff;

(c) drinking intoxicating liquor while in uniform or while on official duty or being intoxicated in a public place while in uniform or while on official duty;

HeinOnline -- 1971 vol. I 503 1971

(d) sleeping while on duty;

(e) incapacity materially affecting ability to perform official duties;

(f) gross inefficiency in the performance of official duties;

(g) participation in any political campaign as a candidate or the solicitation of political support for any candidate for public office.

Statement of causes.

(6) When a sheriff of a first, second or third class county terminates the employment of a deputy he shall at the time of termination cause to be served upon said deputy a statement in writing subscribed and sworn to by the sheriff setting forth the cause or causes for the discharge or termination of the deputy's employment.

Application for district court hearing.

Salary on reinstatment.

Rights restored.

(7) Any deputy sheriff of a first, second or third class county whose employment is terminated from and after the effective date of this act, may within thirty (30) days from the date of the termination of his employment make application to the district court of the county wherein the deputy was employed for a hearing before the court, with or without jury, on the charges resulting in the deputy's termination of employment or discharge. In the event that a deputy prevails at the hearing he shall be entitled to be reinstated as a deputy sheriff at the same salary he received prior to his discharge or termination of employment and he shall also be entitled to any rights that might have accrued to his benefit prior to his discharge or termination of employment, including that salary which he would have received but for the termination."

Approved February 27, 1971.

CHAPTER NO. 67

An Act to Amend the Motor Carrier Act Setting the Fees Required for Filing Various Documents.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 8-126, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 504 1971

"8-126. **Fees required for filing various documents.** The board of railroad commissioners and the public service commission of Montana shall, except as otherwise provided by law, require and receive fees before filing any annual reports, tariffs, schedules and supplements thereof and shall require and receive fees for all copies of orders, documents, classifications, blank forms and other instruments prepared by it or on file in the office thereof, except as otherwise provided by law to be furnished free of charge, in accordance with the following schedule:

Fees required prior to filing.

Schedule.

Filing annual reports, each	$ 5.00
Filing tariffs, time schedules and supplements thereto, each	2.00
For issuing certificates of public convenience and necessity to motor carriers, each	2.00
Classification for public utilities, each	1.50
Classification for motor carriers, each	.50
For copy of rules and regulations for motor carriers and black forms of annual reports for utilities and common carriers	*Cost*

Nothing herein contained shall be construed to require or authorize the board of railroad commissioners or the public service commission to collect fees for the filing of any annual reports, tariffs, schedules and supplements thereof which relate solely to interstate commerce."

Exceptions.

Approved February 27, 1971.

CHAPTER NO. 68

An Act to Amend Motor Carrier Act, Title 8, Chapter 1, R.C.M., 1947, by Adding a New Subsection (a) Allowing the Railroad and Public Service Commission to Assess Fines for Violation of the Motor Carrier Act after Proper Hearing and Increasing Fines for Violation of the Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 8-119, R.C.M., 1947, is amended to read as follows:

Amending clause.

HeinOnline -- 1971 vol. I 505 1971

Penalties for violations of motor carrier act.

"8-119. **Penalties for violations.** Any motor carrier, subject to the provisions of this act, or, whenever any such motor carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or persons acting for or employed by such corporation, or any person, corporation, association, or partnership, or officer, agent or employee thereof, or any broker of property or officer, agent or employee thereof, who violates or fails to comply with or who procures, aids or abets in the violation of any provision of this act, or who fails to obey, observe, or comply with any lawful order, decision, rule or regulation, direction, demand, or requirement of the board, or any part of provisions thereof, shall:

Civil penalties.

(a) be subject to a civil penalty to be collected and deposited to the general fund by the board after notice and hearing in an amount not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) for the first offense, and not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each subsequent offense; or

Misdemeanor. Fines.

(b) be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) *for the first offense, and not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each subsequent offense* or by imprisonment in the county jail for a period of not more than thirty (30) days, or by both such fine and imprisonment."

Imprisonment.

Approved February 27, 1971.

CHAPTER NO. 69

An Act to Amend Sections 8-110, 8-111, 8-111.1, R.C.M., 1947, all Relating to the Certificate Required of Class C Motor Carriers—Contents of Application—Fee: Excepting from such Requirements all Class C Motor Carriers Operating Pursuant to the Terms and Conditions of a United States Government Contract, Agency or Department Thereof; Providing for a Certificate of

HeinOnline -- 1971 vol. I 506 1971

Public Convenience and Necessity for All Class C Motor Carriers Operating Pursuant to the Terms and Conditions of a United States Government Contract, Agency or Department Thereof, Such Transportation Deemed a Transportation Movement Subject to the Provisions of the Montana Motor Carrier Act, R.C.M., 1947, 8-101 et seq. Providing that the Written Contract and its Presentation to the Board Shall be Deemed Sufficient Proof of Public Convenience and Necessity According to the Terms and Conditions Within the Contract; Providing Further That a Class C Certificate of Public Convenience and Necessity May Be Issued to That Motor Carrier Without Requirement of Time and Place for Public Hearing, Said Certificate Issued Only During the Duration of the United States Government Contract; Providing Further for Renewal of Said Certificate; Amending R.C.M., 1947, 8-111 Exempting All Class C Carriers Operating Pursuant to the Terms and Conditions of a United States Government Contract, Agency or Department from Requirement of Public Hearings—Notice All Matters to be Considered; Amend R.C.M., 1947, 8-111.1 from Requirement of Time and Place of Public Hearing or Issuance of Board Order.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 8-110, R.C.M., 1947, is amended to read as follows: Amending clause.

"8-110. **Certificate required of class C motor carriers—contents of application—fee.** *(1)* (a) No class C motor carrier as in this act defined, *except any class C motor carrier operating pursuant to the terms and conditions of a United States government contract, agency or department thereof,* shall hereafter operate for the distribution, delivery, or collection of goods, wares, merchandise, or commodities, or for the transportation of persons on any public highway in this state, without first having obtained from the board, under the provisions of this act, a certificate that public convenience and necessity require such operation. Class C motor carriers exception. Certificate required.

(b) A motor carrier making application for such permit shall do so in writing, separately for each route or locality for which consideration is desired, which Application.

HeinOnline -- 1971 vol. I 507 1971

Verification. Required information.

petition shall be verified by the applicant and shall specify the following matters:

1. The name and address of the applicant and the names and addresses of its officers, if any.

2. The public highways or highways over which and the fixed termini between which, or the route or routes over which it intends to operate, if the same are fixed; or the particular city, town, station, or locality from and/or to which the applicant intends to operate.

3. The kind of transportation, the character of the goods, wares, merchandise, or commodities to be distributed, delivered or collected, together with a full and complete description of the character of the vehicle or vehicles, including the rated tonnage capacity of such vehicles, to be used in such service of distribution, delivery or collection.

4. And such other or additional information as the board may by order require.

Fees.

(c) Such application shall be accompanied by a fee of fifteen dollars ($15.00) to thirty-five ($35.00) to be set by the board based on the number of counties for which the certificate is requested.

Contract between carrier and federal government.

(2) The transportation for hire of any persons or commodities between any two (2) points within the state of Montana by any motor carrier pursuant to the terms of a written contract between said carrier and the United States government, agency or department thereof, shall be deemed a transportation movement subject to the provisions of the Montana Motor Carrier Act, R.C.M., 1947, 8-101 et. seq., provided, however, that the presentation of the written contract to the board shall be deemed sufficient proof of public convenience and necessity in accordance with the terms and conditions contained within the United States government contract.

Deemed proof of public convenience and necessity.

Class C certificate may issue.

The class C certificate of public convenience and necessity issued pursuant to the terms and conditions of the United States government contract may be issued by the board upon receipt of an executed copy of the United States government contract. The certificate of public convenience and necessity may be issued thereafter without requiring the board to fix a time and place for public hearing.

Hearing not required.

HeinOnline -- 1971 vol. I 508 1971

The certificate of public convenience and necessity, issued pursuant to the terms of the United States government contract, is authorized only for the duration of the United States government contract concerned, provided, however, the certificate may be renewed for another definite term if the same motor carrier is the motor carrier authorized to operate under the United States government contract."

Duration.

Renewal.

Section 2. Section 8-111, R.C.M., 1947, is amended to read as follows:

Amending clause.

8-111. **Hearing to consider applications—notice—matters considered—manner of conducting hearings.** Upon the filing of such application by a class A or class B or class C motor carrier, *except a class C motor carrier authorized to operate under the terms of a United States government contract, agency or department thereof,* the board shall fix a time and place for hearing thereon, which shall not be less than ten (10) days after such filing. The board shall cause a copy of such petition and notice of hearing thereon to be served upon an officer or owner of any motor carrier that in the opinion of the board might be affected by the granting of any such certificate and upon any railroad company operating into or through any town or city located on the proposed route of the applicant, and upon the state highway commission, at least ten (10) days before the date of hearing, and any such motor carrier or railroad company, and the state highway commission, and the governing board or boards of any such county, town or city into or through which such route or service as proposed may extend, and any person or corporation concerned are hereby declared to be interested parties to such proceedings, and may offer testimony for or against the granting of such certificate. If after hearing upon application for a certificate, the board shall find, from the evidence, that public convenience and necessity require the authorization of the service proposed, or any part thereof as the board shall determine, a certificate therefor shall be issued. In determining whether or not a certificate should be issued, the board shall give reasonable consideration to the transportation service being furnished or that will be furnished by any railroad, or other existing transportation agency, and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout twelve (12)

Application.

Exception.

Hearing after 10 days.

Service.

Notice.

10 days before hearing.

Testimony.

Determination by board.

HeinOnline -- 1971 vol. I 509 1971

months of the year and the effect which such proposed transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby.

Disallowance without hearing.

Provided, however, that an application by a class A or a class B or a class C motor carrier for a certificate may be disallowed without a public hearing thereon when it appears from the records of the board that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the board that public convenience and necessity do not require such proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over said route or in said territory and affecting transportation facilities therein have materially changed since said public investigation and finding and that public convenience and necessity do now require such motor carrier operation.

Exception.

Material change.

Conduct of hearings.

Provided further that any investigation, inquiry or hearing which the board has power to undertake or to hold, under the provisions of this act, may be undertaken or held by or before any member of the board, or by and before any agent or examiner of the board designated for the purpose by the board, and every finding, order or decision made by a member of the board, or agent or examiner of the board so designated, together with a statement in writing of the reasons therefor which statement must be included in such finding, or order or decision, pursuant to such investigation, inquiry or hearing, when approved and confirmed by the board and ordered filed in its office, shall be, and be deemed to be the finding, order or decision of the board; provided also, that any agent or examiner of the board designated as aforesaid, shall have power to administer oaths, examine witnesses and receive evidence."

Findings.

Powers.

Amending clause.

Section 3. Section 8-111.1, R.C.M., 1947, is amended to read as follows:

Applications.

"8-111.1. **Time for hearing and issuance of finding, order or decision.** All applications for certificates of public convenience and necessity as Class A, class B, or class C carriers, *except class C carriers operating pursuant*

Exception.

HeinOnline -- 1971 vol. I 510 1971

to the terms and conditions of a United States government contract, agency or department, filed by motor carriers before the board of railroad commissioners must be set for hearing at a date and time certain, which said date of hearing must be not more than sixty (60) days after the date of filing of said application before said board, and the board must issue its finding, order or decision on said application and the evidence presented in support thereof at the time of said hearing within ninety (90) days from and after the said date of the filing of said application."

Hearing within 60 days.

Decision within 90 days.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved February 27, 1971.

CHAPTER NO. 70

An Act to Amend the Reporting Date and the Expiration Date of the Interlocal Cooperation Commission. Amending Section 11-4412 and 11-4416 R.C.M., 1947, Enacted as Sections 12 and 16, Chapter 129, Laws of 1969.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-4412, R.C.M., 1947, enacted as section 12, chapter 129, Laws of 1969, is amended to read as follows:

Amending clause.

"11-4412. **Public hearings on proposed program.** Within *three (3)* years after the date of its organization, the commission shall complete the preparation of its proposals for the provision of both urban area services and county-wide services and shall provide for adequate publication and explanation of its program. Notice of hearings shall be published once each week for at least two (2) weeks preceding a hearing, in at least one (1) newspaper of general circulation in the county. The notice shall state the time and place of the hearing."

Within 3 years.

Services proposals.

Publication—notice of hearings.

Section 2. Section 11-4416, R.C.M., 1947, enacted as section 16, chapter 129, Laws of 1969, is amended to read as follows:

Amending clause.

"11-4416 **Term of commission.** All commissions shall terminate *five (5)* years from the date of their establish-

Termination 5 years from establishment.

HeinOnline -- 1971 vol. I 511 1971

ment. However, a commission, upon completion of its
Earlier termination. duties, may terminate earlier by a vote of three-fourths (3/4) of the members favorable to such earlier termination."

Approved February 27, 1971

CHAPTER NO. 71

An Act to Amend Section 93-8625, R.C.M., 1947, Relating to Who May Sue Without Costs.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. That section 93-8625, R.C.M., 1947, is hereby amended to read as follows:

"93-8625. **Poor person may sue** *or defend* **without costs.**
Poor person may sue or defend. Affidavit. Any person may commence and prosecute *or defend* an action on any of the courts of this state who will file an affidavit stating that he has a good cause of action *or defense,* that he is unable to pay the costs, or procure security
Duties without fees. to secure the same; then it is hereby made the duty of the officers of the courts to issue all writs and serve the same, and perform all services in the action, without demanding or receiving their fees in advance."

Approved February 27, 1971

CHAPTER NO. 72

An Act to Amend Section 4-153, R.C.M., 1947, by Deleting the Provision that the Liquor Control Board Members May Receive Samples of Liquor for Quality Determination, and by Providing that Liquor Samples Received for Testing Shall be Limited to One Twenty-five Fluid Ounce Representative which Shall be Forwarded to a Qualified Chemical Laboratory for Analysis and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 4-153, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 512 1971

"4-153. **Board members not to be interested in liquor sales — unlawful to give or receive gift, commission or remuneration.** (1) No member or employee of the board shall be directly or indirectly interested or engaged in any other business or undertaking dealing in liquor, whether as owner, part owner, partner, member of syndicate, shareholder, agent or employee, and whether for his own benefit or in a fiduciary capacity for some other person.

Liquor board conflicts of interest prohibited.

(2) No member or employee of the board or any employee of the state shall solicit or receive directly or indirectly any commission, remuneration or gift whatsoever from any person or corporation having sold, selling or offering liquor for sale to the state or board in pursuance of this act.

Acceptance of gifts prohibited.

(3) No person selling or offering for sale to, or purchasing liquor from, the state or the board, shall either directly or indirectly offer to pay any commission, profit or remuneration, or make any gift to any member or employee of the board or to any employee of the state, or to anyone on behalf of such member or employee.

Offer of gifts prohibited.

(4) The prohibition contained in subsection (3) of this section does not prohibit the board from receiving samples of liquor for the purpose of *chemical testing, subject to the following limitations:*

Exception.

Samples for testing.

(a) Each manufacturer, distiller, compounder, rectifier, importer, or wholesale distributor, or any other person, firm, or corporation proposing to sell any spirituous liquors to the Montana liquor control board shall submit, without cost to the board prior to the original purchase, an analysis of each brand and may submit a representative sample not exceeding twenty-five (25) fluid ounces of such merchandise to the board.

Duty to submit analysis.

25 ounce sample.

(b) It shall be the duty of the board, when a brand of liquor has been accepted for testing by the board to forward the sample, unopened and in its entirety, to a qualified chemical laboratory for analysis.

Duty of board to forward sample.

(c) The board shall maintain written records of all samples received; such records shall show the brand name, amount and from whom received, date received, the laboratory or chemist to whom forwarded, the board's action on

Records.

HeinOnline -- 1971 vol. I 513 1971

the brand, and the person to whom delivered or other final disposition of the sample.

Limitations on withdrawal of liquor.

(5) No liquor, wine, or other spirituous beverage shall be withdrawn from the regular warehouse inventory or from the state liquor stores of the Montana liquor control board, for any purpose whatsoever other than by sale at the prevailing state retail prices, or for destroying damaged or defective merchandise. The board shall maintain a written record including the type, brand, and container size; number of bottles or other units; signatures of witnesses; and method of destruction or other disposition of damaged or defective warehouse or state store merchandise."

Records.

Effective immediately.

Section 2. This act is effective upon its passage and approval.

Approved February 27, 1971

CHAPTER NO. 73

An Act Providing for the Licensing and Regulation of Persons in Montana Representing Themselves as Psychologists, and Creating a State Board of Psychologist Examiners, Prescribing its Powers and Duties, and Providing Penalties for Violations.

Be it enacted by the Legislative Assembly of the State of Montana:

Practice of psychology subject to regulation.

Section 1. The legislative assembly finds and declares that the practice of psychology in Montana affects the public health, safety, and welfare and should therefore be subject to regulation and control in the public interest in order to protect the public from the unauthorized and unqualified practice of psychology and from unprofessional conduct by persons licensed to practice psychology.

Definitions.

Section 2. As used in this act:

"Accredited college or university."

(1) "Accredited college or university" means any college or university accredited by the regional accrediting association for institutions of higher learning, such as the Northwest Association of Secondary and Higher Schools.

"Board."

(2) "Board" means the State Board of Psychologist Examiners.

HeinOnline -- 1971 vol. I 514 1971

"Psychologist." (3) A person represents himself to be a "psychologist" when he holds himself out to the public by any title or description of services incorporating the words psychologist, psychological, psychologic, or psychology and offers to render or renders such psychological services defined in subsection (4) of this section to individuals, groups, corporations, or the public for compensation or fee.

"Practice of psychology." (4) "Practice of psychology" shall mean the application of principles, methods and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, thinking, motions, and interpersonal relationship; the methods and procedures of interviewing, counseling and behavior modification including psychotherapeutic techniques and hypnosis; and of constructing, administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions and motivation.

After January 1, 1972 license required. Section 3. (1) After January 1, 1972, no person may represent himself to be a psychologist or engage in the practice of psychology unless he is licensed under this act.

Exceptions. (2) Nothing in this act shall be construed to prevent:

Other professions. (a) Qualified members of other professions such as, but not limited to, physicians, social workers, lawyers, pastoral counselors or educators, from doing work of a psychological nature consistent with their training and the codes of ethics of their respective professions if they do not hold themselves out to the public by any title or description incorporating the words "psychology" or "psychologist."

Government employees. (b) The activities, services, and use of an official title on the part of a person in the employ of a federal, state, county, or municipal agency, or of other political subdivisions, or a duly charged educational or charitable institution insofar as such activities and services are a part of the duties of his office, or position with such agency or institution.

Students, interns and residents in psychology. (c) The activities and services of a student, intern, or resident in psychology, pursuing a course of study at an accredited university or college, or working in a generally recognized training center, if these activities and services constitute a part of his supervised course of study.

HeinOnline -- 1971 vol. I 515 1971

Nonresident consultant.

(d) The activities and services of a person who is not a resident of this state, in rendering consulting psychological services in Montana when these services are rendered for a period which does not exceed in the aggregate more than sixty (60) days during any calendar year if the person is authorized under the laws of the state or country of his residence to perform these activities and services; provided that such persons shall report to the board the nature and extent of such services in this state if they exceed ten (10) days within any calendar year.

60 days per year.

Reports to board—in excess of 10 days per year.

Recent resident applicant.

(e) A person authorized by the laws of the state or country of his former residence to perform such activities and services, who has recently become a resident of this state, and who has applied for licensure in Montana, pending disposition of his application.

"Social psychologist."

(f) The use of the term "social psychologist" by any person who:

Doctoral degree.

(i) Has been graduated with a doctoral degree in sociology or social psychology from an institution whose credits in sociology or social psychology are acceptable by a recognized educational institution and, who

Examinations and training.

(ii) has passed comprehensive examinations in the field of social psychology as part of the requirement for the doctoral degree or who has had equivalent specialized training in social psychology and, who

Filed statement.

(iii) has filed with the board a statement of facts demonstrating his compliance with this subdivision.

Lecture services.

(g) The offering of lecture services for a fee by a person exempted from licensing requirements by virtue of his employment.

Organization employees.

(h) Activities of a psychological nature on the part of persons who are salaried employees of accredited academic institutions, governmental agencies, research laboratories, and business corporations, provided such employees are performing those duties for which they are employed by such organizations, and within the confines of such organization.

State board of psychologist examiners created.

Section 4. **Creation of board of examiners.**

The state board of psychologist examiners is established to administer this act.

HeinOnline -- 1971 vol. I 516 1971

(1) The board shall consist of three psychologists who shall be appointed by the governor within ninety (90) days after this act takes effect. The governor shall select his appointees for this first board from a list submitted to him by the Montana Psychological Association, consisting of the names of all members of the Montana Psychological Association who are currently certified by its board of examiners and who are also members of the American Psychological Association and who hold the Ph.D. degree. Appointment by governor.

(2) The members of the first board shall serve the following terms: one (1) member for one (1) year, one (1) member for two (2) years, and one (1) member for three (3) years. Thereafter, at the expiration of the term of each member, the governor shall appoint his successor for a term of three (3) years from the list of licensed psychologists. Terms of office.

(3) Before entering upon the duties of his office, each member of the board shall take the constitutional oath of office and file it with the secretary of state. Each member of the board first appointed under this act shall be issued a license upon payment of the appropriate fee. Oath. License.

(4) No member of the board may be appointed to succeed himself, but any member may be reappointed after a period of three (3) years following the termination of a previous appointment. Member cannot succeed himself.

(5) Each member of the board shall be a citizen of the United States and a resident of Montana. Citizen—resident.

(6) Any vacancy in the membership of the board occurring other than by expiration of term, shall be filled by appointment by the governor for the unexpired term, from a current list similar to the one submitted to him under subsection (2) hereof. Vacancies.

Section 5. **Duties of Board.** (1) The board shall hold a regular annual meeting in which it shall select from its members a chairman and a secretary. The secretary of the board shall keep a record of its proceedings. Other regular meetings shall be held at such times as the rules of the board may provide. Special meetings may be held at such times as may be deemed necessary or advisable by the chairman and the majority of its members, or upon the request of the governor. Reasonable notice of all meetings shall be given in the manner prescribed by Annual meeting. Chairman. Secretary. Other meetings. Special meetings. Notice.

HeinOnline -- 1971 vol. I 517 1971

Quorum.

the board. The quorum of the board shall consist of the majority of its members.

Employment of personnel.

(2) The board may employ such other persons as it deems necessary or desirable to carry out the provisions of this act, all of whom shall receive such compensation as may be fixed in the budget from time to time.

Expenses.

(3) Each board member shall receive actual necessary traveling and subsistence expenses incidental to board meetings as provided for in the statutes.

Rules.

(4) The board may make all rules which are reasonable and necessary for the proper performance of its duties and for the regulation of proceedings before it, and which are not inconsistent with the constitution or the laws of this state.

Report to governor.

(5) The board shall prepare a report to the governor as required by law.

Duty of attorney general.

(6) The attorney general shall act as attorney for the board. He or his representative may sit as an ex officio member of the board in an advisory capacity only.

Seal.

(7) The board shall adopt an official seal.

Annual examinations.

Section 6. (1) The board shall administer examinations to qualified applicants for licensing at least once a year. The board shall determine the subject and scope of specialized psychological areas and techniques for examination. Examinations may be written, oral, or both. The license shall determine an acceptable level of performance for each examination.

Re-examination.

(2) An applicant who fails his first examination may be re-examined at subsequent examination upon the payment of another examination fee. An applicant who fails two (2) successive examinations may apply for re-examination after two (2) years of additional professional experience or training.

Additional training.

Licenses.

(3) The board shall issue a license to each person who meets the requirements for licensure as prescribed in this act. The license shall include the dates of issuance and expiration and shall bear a serial number. It shall be signed by the secretary of the board under the seal of the board.

HeinOnline -- 1971 vol. I 518 1971

(4) The license shall expire on January 1 following the date of its issuance or renewal and is invalid thereafter. The board shall notify each person licensed under this act relative to the date of the expiration of his license and the amount of his renewal fee. This notice shall be mailed to each licensed psychologist at his listed address at least one (1) month before the expiration of the license.

Expiration January 1.
Notice.
One month.

(5) Renewal may be made at any time during the sixty (60) days prior to the expiration date by application therefor. Failure on the part of any person licensed to pay his renewal fee by the expiration date does not deprive him of the right to renew his license, but the fee shall be increased ten percent (10%) for each month or major portion thereof that the payment of the renewal fee is delayed after the expiration date. The maximum fee for delayed renewal shall not exceed twice the normal renewal fee. Application for renewal following a lapse of one (1) year or more will be subject to review by the board, and the applicant may be requested to complete an examination successfully if the board so determines.

Renewal.
Fee.
Increase.
Lapse of one year.
Board review.

(6) The board shall publish yearly a list of all psychologists licensed under this act. This list shall contain names and addresses and such other information as the board deems advisable. The board shall mail a copy of this list to each person licensed under this act, place a copy on file in the secretary of state's office, and furnish copies to the public, upon request.

Annual list.
Distribution.

Section 7. (1) In addition to the other powers and duties set forth, the board may:

Other powers and duties.

(a) Revoke and suspend licenses.

(b) Conduct hearings upon complaints concerning persons licensed under this act.

(c) Cause the prosecution and enjoinder of all persons violating this act, by the complaint of its secretary signed with the county attorney, in the county where the violation took place, and incur necessary expenses therefor.

(d) Study and review new developments in research, training, and the practice of psychology and make recommendations to the governor and other state officials regarding new and revised programs and legislation re-

HeinOnline -- 1971 vol. I 519 1971

lated to psychology which could be beneficial to the citizens of the state of Montana.

Forms.

Section 8. (1) Application for examination for licensing a psychologist shall be made upon forms prescribed by the board.

Prior to January 1, 1973.

Qualifications for license.

(2) Prior to January 1, 1973, the board shall license as a psychologist any person who pays the prescribed fee, and who submits evidence by oath that he:

(a) Is a resident of or shows satisfactory evidence of intent to become a resident of Montana at the time he is licensed.

(b) Is at least twenty-one (21) years of age.

(c) Is of good moral character.

(d) Has received a doctoral degree based on a program of studies, primarily psychological in content, from an accredited college or university having an appropriate graduate program.

(e) Shall have completed at the time of application a minimum of two (2) years of experience in the practice, research or teaching of psychology. One (1) year of such experience shall be post-doctoral.

After Jan. 1, 1973.

Examination.

(3) After January 1, 1973, all applicants must meet the requirements set forth in subsection (2) of this section and shall pass an examination administered by the board.

Prior to Jan. 1, 1973. Qualifications.

(4) Prior to January 1, 1973, a license may be issued to an individual who has been a resident of the state for at least one (1) year and who holds a master's degree from an accredited college or university based on a program which is primarily psychological, and in addition has had five (5) years of professional experience satisfactory to the board, provided he has met the requirements of paragraphs (a), (b) and (c) of subsection (2) of this section.

License without examination.

(5) A license without examination may be issued by the board to any psychologist licensed or certified in another state where the licensing or certification requirements are substantially equivalent to the requirements of this act, or to any psychologist who is a diplomate in

HeinOnline -- 1971 vol. I 520 1971

good standing of the American Board of Professional Psychology.

Section 9. (1) A license applied for, or issued under this act, may be refused or revoked by the board upon proof that the person to whom the license was issued: Refusal or revocation.

(a) Has been convicted of a felony;

(b) Has been guilty of fraud or deceit in securing the license or any renewal thereof; or

(c) Is using any narcotic or any alcoholic beverage to an extent that such use impairs his ability to perform the work of a professional psychologist with safety to the public; or

(d) Has been guilty of unprofessional conduct as defined by the code of ethics published by the American Psychological Association.

Section 10. (1) The board may not refuse to issue or renew or revoke the license of any person for any cause other than failure to pay fees unless the person has been given at least thirty (30) days' notice in writing by certified mail of the charges against him and a hearing by the board. The written notice shall be mailed to the person's last known address. Upon such hearing, the board may administer oaths and procure by subpoena the attendance of witnesses and the production of relevant books and papers. 30 days notice. Hearing. Oaths. Subpoenas.

(a) Any action of, or ruling or order made or entered by the board declining to issue a certificate to, or declining to recommend licensure of any person shall be subject to judicial review in the manner hereinafter provided. The review shall be in the district court in and for the county in which the board's action was taken. Judicial review.

(b) A person seeking judicial review shall, within thirty (30) days after the board's action, serve upon the secretary of the board a written notice of appeal for review stating the grounds of appeal. At the same time, such persons shall file in the office of the secretary of the board an appeal bond in an amount not to exceed three hundred dollars ($300), with good and sufficient surety to be approved by the secretary. The bond shall run to the state of Montana for the benefit of the board, conditioned for the speedy prosecution of the appeal and the Service. Notice of appeal. Bond $300.

HeinOnline -- 1971 vol. I 521 1971

payment of such costs on appeal as may be charged against the party appealing.

Secretary shall submit transmit record to clerk of court.

(c) The secretary of the board, within ten (10) days after the receipt of notice of appeal and the filing and approval of the appeal bond, shall transmit to the clerk of the district court to which the appeal is taken, a copy certified under the seal of the board all of the files of the board concerning the proceedings before the board together with the appeal bond. The district court may award costs to the prevailing party on appeal.

Costs.

Trial de novo.

(d) The clerk of such court shall thereupon docket such appeal and it shall be tried de novo as any other action.

Appeal—supreme court.

(e) Either party may appeal from the judgment of the district court to the supreme court in the same manner as civil actions may be appealed.

Stay of proceedings.

(f) In cases of revocation or suspension, the action of the board shall be stayed from the date of approval of the appeal bond until final determination of the appeal.

Schedule of fees.

Section 11. (1) The board shall collect the following fees none of which is refundable:

(a)	Application fee	$25.00
(b)	Examination fee	$15.00
(c)	Certificate fee	$10.00
(d)	Renewal fee	$20.00 to $50.00

Renewal fees.

The board is hereby empowered to set the annual renewal fee annually within the above limits.

(2) The initial certificate fee shall be prorated as follows:

If the certificate is issued between January 2 and March 31 $10.00

If the certificate is issued between April 1 and June 30 $7.50

If the certificate is issued between July 1 and September 30 $5.00

HeinOnline -- 1971 vol. I 522 1971

If the certificate is issued between October 1 and January 1 $2.50

(3) Renewal certificates shall be secured annually and dated January 2.

(4) All moneys received by the board shall be deposited in the state treasury to the credit of the earmarked revenue fund for the use of the board. Deposit of monies.

Section 12. (1) The confidential relations and communications between a psychologist and his client shall be placed on the same basis as provided by law for those between an attorney and his client. Nothing in this act or any other shall be construed to require such privileged communications to be disclosed. Privileged communications.

Section 13. (1) Any person who violates any of the provisions of this act shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding five hundred dollars ($500), or by both. Penalties for violations.

Section 14. (1) The practice of psychology in any way other than as defined in this act may be enjoined by the district court on petition by the board. In any such proceeding, it shall not be necessary to show that any person is individually injured by the actions complained of. If the respondent is found to have so practiced, the court shall enjoin him from so practicing unless and until he has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit. The remedy by injunction hereby given is in addition to criminal prosecution and punishment. Injunction. Procedure.

(2) Nothing in this act shall be construed as permitting psychologists to prescribe drugs, perform surgery or administer electro-convulsive therapy. Limitations.

Section 15. (1) If any provision of this act, or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect any other provision or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable. Severability clause.

Approved February 27, 1971

HeinOnline -- 1971 vol. I 523 1971

CHAPTER NO. 74

An Act Amending Section 69-6402, R.C.M. 1947, Relating to the State Board of Eugenics by Providing for the Payment of Per Diem and Expenses for the Members of the Board and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-6402, R.C.M. 1947, is amended to read as follows:

State board of eugenics created.

"69-6402. **State board of eugenics — composition.** To carry out the purposes of this act, there is hereby created and established for Montana a state board of eugenics which shall consist of the following:

Appointments by governor.

(1) Two (2) physicians licensed to practice medicine and surgery in the state of Montana to be appointed by the governor after considering the recommendation of the

Terms of office.

Montana medical association, the first such physician appointments to be for a term of two (2) and three (3) years respectively, and thereafter each such physician appointment to be for a term of three (3) years;

(2) One (1) lawyer licensed to practice law in the state of Montana to be appointed by the governor for a

Terms of office.

term of three (3) years after considering the recommendation of the Montana bar association;

(3) Three (3) lay members and a psychologist to be appointed by the governor, the first such lay member

Terms of office.

appointees shall be for a term of one (1), two (2), and three (3) years respectively and thereafter each such lay member appointee to be for a term of three (3) years; the psychologist appointee shall be for a term of three (3) years;

Secretary designated.

(4) The director of the department of institutions who shall be an ex officio member of the board and shall act as its secretary and the keeper of its books and records.

$25 per day plus expenses.

Board members shall receive twenty-five dollars ($25) per day for attending meetings. Board members shall also be reimbursed for actual and necessary expenses incurred in attending meetings."

Effective immediately.

Section 2. This act shall be effective upon passage and approval.

Approved February 27, 1971

HeinOnline -- 1971 vol. I 524 1971

CHAPTER NO. 75

An Act to Amend Section 66-1307, R.C.M. 1947, to Increase the Annual Registration Fee for Optometrists.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-1307, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-1307. **Renewal of registration—revocation—fees.** Every registered optometrist who desires to continue the practice of optometry in this state shall annually on or before the second day of July of each year pay to the secretary of said board a renewal fee not to exceed the sum of *fifty* dollars *($50)* in return for which a renewal of registration shall be issued. The board may present to registered optometrists at least one annual educational program. If any person shall fail or neglect to procure his annual renewal of registration, his certificate of registration shall be revoked by said board; provided, however, that no certificate of registration shall be revoked without ninety (90) days' notice having been given to the delinquent, who within such period shall have the right to the renewal of his certificate of registration on the payment of the renewal fee with a penalty of *thirty-five* dollars *($35).*" Registered optometrist. Before July 2. Renewal fee. Educational program. Revocation. 90 days notice. Renewal. $35 penalty.

Approved February 27, 1971

CHAPTER NO. 76

An Act to Amend Sections 69-5401, 69-5402, 69-5403, 69-5404,, 69-5405, 69-5407 and 69-5408, R.C.M. 1947, Relating to Licensing and Control of the Business of Cleaning Cesspools, Septic Tanks and Privies; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 69-5401, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-5401. **License required.** No person, partnership, firm, or corporation shall engage in the business of cleaning cesspools, septic tanks or privies, *and disposal of waste therefrom* unless licensed by the state department of health *and the license validated by the health officer or local sanitarian in each county where business is to be conducted.* License required—waste disposal. Validation.

HeinOnline -- 1971 vol. I 525 1971

The *state department of health* may deny, suspend, or revoke a license for noncompliance with this chapter or rules adopted by the state board of health."

Amending clause.

Section 2. Section 69-5402, R.C.M. 1947, is amended to read as follows:

Application forms.

"69-5402. **Application for license—form and contents.** Application for a license is made to the *state* department *of health on application forms procured from the local health officer or sanitarian in the county of applicant residence.* The application shall show:

Required information.

(1) the name in full, and if a partnership, the name of each partner;

(2) place of business *and the counties in which business is to be conducted;*

(3) place of residence of the applicant or applicants;

(4) number of units and type of equipment to be used;

(5) a statement that the applicant will comply with rules adopted by the state board under this chapter;

(6) the signature of the individual, authorized officer of the firm or corporation, or managing partner of the partnership applying."

Amending clause.

Section 3. Section 69-5403, R.C.M. 1947, is amended to read as follows:

Licenses titled "Montana sanitary licensee."

"69-5403. **Licenses — title — numbering — duration — transfer prohibited — fees, disposition.** Licenses issued by the *state* department *of health* shall be titled "Montana Sanitary Licensee", and numbered consecutively beginning with the number ten (10). Licenses expire on December 31 of each calendar year. Licenses are not transferable. The fee for each license is *twenty-five dollars ($25) payable at the time of application for license. Twenty dollars ($20) of the fee shall be deposited with the county treasurer in the county of licensee residence and five dollars ($5) forwarded with the application to the state department of health. The state fee shall be deposited in the state general fund. The county portion of the fee shall be used to defer cost of a sanitarian to enforce this act. The state department of health shall return the license to county of licensee residence for issue."*

Expiration.

Nontransferable.

Fees.

Deposit of monies.

HeinOnline -- 1971 vol. I 526 1971

Section 4. Section 69-5404, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-5404. **Vehicle of licensee — marking.** Persons licensed shall paint on the side of each vehicle *using* the words "Montana Sanitary Licensee" and immediately under those words shall paint "License No. ..... (insert number of license)". License numbers shall be at least one and one-half (1½) inches high and in a distinct color contrasting with the background." Required vehicle marking.

Section 5. Section 69-5405, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-5405. **Permit from local health officer — examination — fee.** Each person licensed under the provisions of this chapter who cleans a cesspool, septic tank, or privy shall secure *a validation signature on the license* from the local health officer or *sanitarian,* having jurisdiction *in each county in which the business will be conducted. The license shall be invalid until said validation signature is affixed. The validation signature* shall be *affixed* only after satisfactory *evidence* of the applicant's knowledge of sanitary principles, laws and ordinances; reliability in observing sanitary laws; and ability to clean the septic tank, cesspool or privy without endangering human health or safety *and that the licensee has a permanent approved disposal site or is knowledgeable of the restrictions on disposal site locations."* Local validation signature. Evidence. Approved disposal site.

Section 6. Section 69-5407, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-5407. **License not required of municipalities.** The license provisions of this chapter do not apply to any county or municipality *or other local, state or federal governmental agency* which desires to clean septic tanks, cesspools, or privies publicly owned or controlled by them. However, counties and municipalities *or other local, state or federal governmental agencies* shall comply with rules adopted by the state board *of health* for cleaning cesspools, septic tanks, or privies, *and disposal or wastes from cesspools, septic tanks, or privies."* Government agencies exempt. Compliance with rules.

Section 7. Section 69-5408, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-5408. **Enforcement of chapter — violation of this**

HeinOnline -- 1971 vol. I 527 1971

chapter or order of a health officer is a misdemeanor. State and local health officers, *or sanitarians,* are responsible for the enforcement of this chapter. Any person who fails to comply with provisions of this chapter or orders of a health officer *or sanitarian* made under this chapter for the protection of human health is guilty of a misdemeanor. Upon conviction he shall be fined not more than one hundred dollars ($100), imprisoned for not more than thirty (30) days, or both, for each offense. Fines collected shall be deposited in the general fund of the county in which the action is brought."

Enforcement.

Penalties for violations.

Section 8. This act is effective January 1, 1972.

Effective January 1, 1972.

Approved February 27, 1971

CHAPTER NO. 77

An Act to Amend Section 4-235, R.C.M. 1947, to Remove the Limitation of Outstanding Indebtedness which may be Incurred by the Montana Liquor Control Board; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-235, R.C.M. 1947, is amended to read as follows:

Amending clause.

"4-235. **Indebtedness may be created — limitation.** The board is hereby authorized to incur indebtedness in the administration of this act for *necessary expenses and the acquisition of necessary property and merchandise, provided, however, that the total amount of outstanding indebtedness, exclusive of indebtedness incurred for merchandise held for resale, shall not at any time exceed the sum of twenty-five thousand dollars ($25,000) and provided further* that any indebtedness so incurred by the board shall be paid solely out of the moneys arising in the administration of this act."

Liquor board authorized to incur indebtedness.

Limitation $25,000.

Payment.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved February 27, 1971

HeinOnline -- 1971 vol. I 528 1971

CHAPTER NO. 78

An Act to Amend Section 26-1201, R.C.M. 1947, Removing Buffalo from the Requirements of Game Farm Permit.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-1201, R.C.M. 1947, is amended to read as follows: Amending clause.

"26-1201. **Permit for breeding and propagating game birds and animals and fur-bearing animals — migratory birds excluded.** Any person, or persons, firm, company or corporation before engaging in the business or occupation of propagating, owning and controlling game animals *except buffalo,* game birds (except migratory game birds), or fur-bearing animals of the state of Montana, shall first procure a game or fur farm permit from the state fish and game director. The owning, controlling, propagating, salvage, banding, transportation, shipping, import, export, acquisition and scientific collecting of migratory game birds shall be in compliance with regulations of the commission adopted pursuant to section 26-320.

Exceptions, buffalo—migratory game birds.

Game or fur farm permit required.

Compliance with regulations.

Such game or fur farm permit shall be issued to responsible applicants who own or lease the premises on which their operations are to be conducted, when such applicant has so fenced the place where such game or fur farm is located, with fencing material, approved by the state fish and game director, so that no wild or public animals of like species can mix with those confined.

Qualifications.

Fencing.

Foundation stock for a fur farm may be obtained from the state fish and game commission by a free permit authorizing game farm permit holders to capture a designated number of fur-bearing animals, with the exception of beaver or marten, for breeding stock, under such rules and regulations as the commission shall prescribe. Such fur-bearing animals captured under permit shall not be sold or pelted for the period of one (1) year after their capture and the skins or pelts of any fur-bearing animals accidentally killed during their capture or for the period of one (1) year thereafter shall be turned over to the state fish and game director.

Free permit to capture stock.

Exceptions.

Limitations on disposal.

A charge shall be made for the capture of each beaver or marten by fur farm permit holders for foundation stock,

Charges for beaver or marten.

HeinOnline -- 1971 vol. I 529 1971

under authorization of the state fish and game director as follows:

Beaver — fifteen dollars ($15) each.

Marten — twenty-five dollars ($25) each.

Tags.

The skins, pelts or products of such beaver and marten on game or fur farms shall be tagged individually with

Fees 5c each.

tags purchased from the commission for a fee of five cents (5¢) each. Each game farm or fur farm shall be open to

Inspections.

complete inspection by the state fish and game director or his wardens at any reasonable time, inclusive of the whole area thereof, all stock thereon, and all structures, pens, and other devices thereon. Game farm or fur farm permits issued under the provisions of this act shall be valid during the time such game or fur farm is operated

Annual report— January 31.

and conducted according to law, provided that on or before January 31 of each year a report shall be submitted by the licensee to the state fish and game director, showing the numbers and species of game or fur-bearing animals on hand on January 1, preceding, and the number and kinds of animals pelted, bought or sold during the year.

Trespassing prohibited.

Any person or persons, except as herein provided, who, at any time, in any part of the state of Montana, without the consent of the owner or caretaker of any enclosure within which fur-bearing animals are kept for breeding purposes, and on the fence of which enclosure are kept

Posted notices.

posted notices forbidding trespassing on the premises where the said animals are kept, which notices must be plainly discernible at a distance of not less than twenty-five (25) yards therefrom, shall pass within the said fence or such enclosure or climb over, break or cut through the same for the purpose of entering the said enclosure, etc., or for any

Misdemeanor.

other purpose whatsoever, shall be guilty of a misdemeanor, and liable to the penalty hereinafter provided.

Fox or mink stock not captured.

Any person or persons, firm, company or corporation engaging in the business or occupation of fox or mink farming whose original foundation stock is or was not captured from the wild in the state of Montana shall apply for and be issued free of charge a numbered certificate

Certificate of identification.

of identification for such fur farm, which certificate shall be nontransferable and valid for the life of the business;

Exemptions.

provided, no other provisions of this section shall be construed to or shall in any manner affect such person, or persons, firm, company or corporation engaging in the

HeinOnline -- 1971 vol. I 530 1971

business or occupation of fox or mink farming whose original foundation stock is or was not captured from the wild in the state of Montana."

Approved February 27, 1971

CHAPTER NO. 79

An Act to Require Each Montana Licensed Optometrist to Attend Continuing Educational Programs for not Less than Twelve (12) Hours Annually.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section added to chapter 13 of Title 66, R.C.M. 1947, which reads as follows:

66-1318. Beginning June 1, 1971 each Montana licensed optometrist in active practice in the state of Montana shall be required to attend not less than twelve (12) hours annually of scientific clinics, forums, or optometric educational studies as may be provided or approved by the Montana state board of examiners in optometry, as a prerequisite for his license renewal. A copy of this act shall be sent to each licensee by the board prior to the license renewal date each year. The board may exempt from this requirement those licensees who submit satisfactory proof that they were prevented from attending educational programs during the preceding year due to illness or for other good reason.

June 1, 1971.

Required attendance for licensed optometrists.

License renewals.

Exemptions.

Approved February 27, 1971

CHAPTER NO. 80

An Act to Amend the Eligibility Requirements for Participation in Benefits Under the Volunteer Firemen's Pension Plan; Amending Sections 11-2022, 11-2023, 11-2024 and 11-2025, R.C.M. 1947; Repealing any Acts and parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-2022, R.C.M. 1947, is amended to read as follows:

Amending clause.

HeinOnline -- 1971 vol. I 531 1971

"11-2022. **Disability, death, insurance and pension benefits.** 1. Every member of a fire company organized in an unincorporated area, town or village under the laws of this state, shall be entitled to receive compensation for disability incurred while in the performance of his duties as such fireman, when such disability necessitates the services of a physician or surgeon, while confined or nonconfined, in the following amounts:

Volunteer firemen entitled to compensation for disability.

Hospitalization.

$2,500.

a. If confined to a hospital, the actual cost of hospitalization, and the reasonable charges of a duly licensed physician or surgeon, not to exceed two thousand five hundred dollars ($2,500).

Medical services.

$750.

b. If not confined to a hospital, the actual reasonable charges of a duly licensed physician or surgeon, not to exceed seven hundred fifty dollars ($750).

Home nursing and medical services.

$1,750.

c. If confined to his home, and such confinement necessitates the services of a nurse, then the actual charges of such nurse, together with actual reasonable charges of a duly licensed physician or surgeon, not to exceed one thousand seven hundred fifty dollars ($1,750).

Loss of member.

Expenses of artificial member.

2. Where an injury incurred in line of such duty results in the loss by amputation of an arm, hand, leg or foot, or the enucleation of an eye, or the loss of any of the natural teeth, the board shall order them an artificial member or members be furnished to supply the loss thereof. The expense of furnishing such members shall not exceed the following amounts: Hand or arm to elbow, two hundred fifty dollars ($250); arm above elbow, three hundred dollars ($300); foot or leg, two hundred fifty dollars ($250); eye, twenty-five dollars ($25); teeth, one hundred seventy-five dollars ($175). The replacement of an artificial member so furnished shall be required every five (5) years, if necessary.

Death benefit.

$250.

3. To aid in defraying funeral expenses of a fireman covered under this act whose death occurs in line of duty, an amount not to exceed the sum of two hundred fifty dollars ($250) shall be allowed.

Incentive to maintain group insurance.

$50 per year—each mobile unit.

4. To encourage and aid volunteer fire departments to maintain group insurance for benefits on account of death or injury incurred by members while in the performance of duties as volunteer firemen, the sum of fifty dollars ($50) per year for each mobile unit of fire-

HeinOnline -- 1971 vol. I 532 1971

fighting equipment, not exceeding two (2) such units in number for any such department, shall be paid to each volunteer fire department maintaining such insurance, or to the organization or agency maintaining such insurance for any such volunteer fire department.

Qualification for pension plan.

5. *In the case of every* volunteer fireman who shall meet the qualification requirements set forth in subparagraph two (2) of section 11-2023, and *then if* the claim provided for under subparagraph two (2) of section 11-2024 *shall be completed and filed, the claimant* shall be entitled thereafter to participate in the volunteer firemen's pension plan *as provided in this act,* and to receive payments thereunder computed each year in the following manner. Whenever at the close of business on the last day of any fiscal year there shall be a balance in the volunteer fireman's compensation earmarked revenue account in the earmarked revenue fund in excess of one million dollars ($1,000,000) then the industrial accident board shall pay over said excess amount to the public employees' retirement system, for the payment by said public employees' retirement system of pensions to qualified *claimants* during the immediately succeeding fiscal year. The amount to be paid to each qualifying *claimant* shall be determined by dividing said excess amount by the number of *claimants* qualifying to participate in such pension plan at the beginning of such succeeding fiscal year. If such excess amount shall be sufficient to pay each such qualified *claimant* at least twenty dollars ($20) per month throughout such succeeding fiscal year, then such pension shall be paid monthly, on or before the last day of each month of such succeeding fiscal year; but if said excess amount shall not be sufficient to pay each qualified *claimant* at least twenty dollars ($20) per month, then each qualified *claimant's* full pension for that year shall be paid to him in one lump payment on or before the fifteenth day of December of such year; provided, however, that in any event the total pension payable hereunder to any qualified *claimant* shall not exceed the sum of twenty-five dollars ($25) per month, and the amount to be set aside hereunder from the volunteer fireman's compensation earmarked revenue account in the earmarked revenue fund at the beginning of any fiscal year for the funding of such pensions shall not in any event exceed the amount necessary to pay such maximum of twenty-five dollars ($25) per month to each *claimant*

Source of funds.

Payments to qualified claimants.

Lump sum.

Maximum $25 per month.

HeinOnline -- 1971 vol. I 533 1971

Computation—child benefits.

qualified as of the beginning of such fiscal year. *For the purpose of computation and payment of benefits under this act, if children of any volunteer fireman shall become eligible for benefits hereunder, then all children of such volunteer fireman shall be treated collectively as one (1) claimant.* The fiscal year for the purpose of this act shall begin on the first day of July of each year and end on the last day of June of each year."

Fiscal year.

Amending clause.

Section 2. Section 11-2023, R.C.M. 1947, is amended to read as follows:

"11-2023. **Qualification for compensation.** (1) In order to qualify for the compensation provided under subparagraphs one (1), two (2), three (3) and four (4) of section 11-2022, the fireman must be an enrolled active member of a fire company organized under the laws of the state of Montana in an unincorporated area, town or village, at the time of such injury or sickness for which compensation hereunder is claimed.

Enrolled active member of fire company.

(2) In order to qualify for participation in the volunteer fireman's pension plan under subparagraph five (5) of section 11-2022, a volunteer fireman must meet each of the following requirements:

Requirements.

(A) He must have completed a total of *at least ten (10)* years' service as an active volunteer fireman and as an active member of a qualified volunteer fire company organized under the laws of the state of Montana in an unincorporated area, town or village; *provided, that in the case of any volunteer fireman having completed at least ten (10) years' but less than twenty (20) years' service as an active volunteer fireman, then the claimant hereunder shall be eligible for only a proportion of the benefits specified in subparagraph five (5) of section 11-2022, determined by multiplying such specified benefits by a fraction, the numerator of which shall be the number of years active service completed, and the denominator of which shall be twenty (20); and* provided, *further* that from and after July 1, 1965, no volunteer fireman shall receive credit for any year of membership in any such volunteer fire company unless throughout such year such volunteer fire company shall have maintained fire-fighting equipment in serviceable condition of a value of two thousand five hundred dollars ($2,500) or more, and unless throughout such year such volunteer fire company, or the fire district served

10 years service.

10 to 20 years service.

Proportion of benefits.

Fire fighting equipment. $2,500 or more.

HeinOnline -- 1971 vol. I 534 1971

thereby, shall have been rated in class five (5), six (6), seven (7), eight (8), nine (9) or ten (10) by the board of fire underwriters for the purpose of fire insurance premium rates; provided, further, that such years of active service shall be cumulative and need not be continuous, and that such service need not be acquired with one (1) single fire company, but may be a total of separate periods of active service with different fire companies organized under the laws of the state of Montana in different fire districts in unincorporated areas, towns or villages. From and after passage of this act, the annual period of service for the purpose of this act shall be the fiscal year; no fractional part of any year shall count toward the service requirement, and to receive credit for any particular year a volunteer fireman must serve with one (1) particular volunteer fire company throughout that entire fiscal year;

Ratings.

Cumulative service.

Computation of annual period.

(B) He must have attained the age of fifty-five (55) years (but he need not be an active volunteer fireman or an active member of any volunteer fire company at the time of reaching such age); *provided, that in the case of any volunteer fireman having completed at least ten (10) years' but less than twenty (20) years' service as an active volunteer fireman, the claimant hereunder shall be eligible for only a proportion of the benefits specified in subparagraph five (5) of section 11-2022, determined by multiplying such specified benefits by a fraction, the numerator of which shall be the number of years active service completed, and the denominator of which shall be twenty (20); and*

55 years of age.

10 to 20 years.

Proportion of benefits.

(C) During each of the years for which he claims credit under subparagraph (A) above, he must have completed a minimum of thirty (30) hours of instruction in matters pertaining to fire fighting, under a program formulated and supervised by the chief of his volunteer fire company. Provided, however, that any volunteer fireman who is an active member of a volunteer fire company organized under the laws of the state of Montana in an unincorporated area, town or village at the time of passage of this act shall receive credit against the said service requirement to the extent of one (1) year's credit for each two (2) years' service completed or to be completed by him prior to July 1, 1965, as such active member of any such volunteer fire company or companies; for the purpose of this credit for prior service it shall not be necessary either that the volun-

Minimum 30 hours of instruction.

Credit for service prior to July 1, 1965.

HeinOnline -- 1971 vol. I 535 1971

teer fire company or companies with which such service has been rendered shall satisfy the requirements of subparagraph (A) above, or that the individual volunteer fireman shall during such prior service have satisfied the requirements of subparagraph (C) above; but in any event no more than ten (10) years' credit shall be allowed any such volunteer fireman by reason of such service prior to July 1, 1965. For the purpose of establishing such prior service credit, the chief of each volunteer fire company shall on or before September 1, 1968, prepare and file with the public employees' retirement system of the state of Montana a certificate, subscribed and verified under oath, setting forth the names and residence addresses of each of the members of his volunteer fire company who shall have qualified for one (1) or more years' credit for prior service, and setting forth the number of years of credit to which each thereof shall be entitled."

Maximum 10 years credit.

Chief shall file certificate.

Amending clause. Section 3. Section 11-2024, R.C.M. 1947, is amended to read as follows:

"11-2024. **Claim for compensation — contents — filing — limitation on time for filing — addition of name to pension list.** 1. A fireman claiming compensation under subparagraphs one (1), two (2), three (3) or four (4), of section 11-2022, must file his claim with the industrial accident board upon a form to be provided therefor, which claim shall contain the name and address of the claimant, date, place and manner of incurring of disability, name and address of attending psysician or surgeon and/or nurse, if any, dates of confinement, if confined, or if not confined, dates of attendance by physician or surgeon, dates of attendance by nurse; affidavit of attending psysician or surgeon as to nature of disability, number and dates of attendance and statement of charges; if confined to hospital, an affidavit of person in charge stating nature of disability, dates of confinement and expenses incurred while so confined; affidavit of chief or secretary of fire company stating that said fire company was duly organized under the laws of Montana in an unincorporated town or village, statement that claimant was, at the date of disability an active enrolled member of such company, and that the disability was incurred in line of duty; an affidavit of the nurse stating the nature of disability, dates of attendance, and statement of charges for services; said claim shall be verified by the

Filing disability claims—procedure.

Form.

Affidavit—attending physician.

Hospital affidavit.

Fire company affidavit.

Nurse's affidavit.

HeinOnline -- 1971 vol. I 536 1971

claimant, the attending physician or surgeon and nurse, if any, and by the person in charge of the hospital, if confined; said claim shall be filed with the board within *one* (1) year from the date of disability. Within one year.

2. A *claimant* claiming eligibility under the volunteer firemen's pension plan must file his claim with the public employees' retirement system upon a form to be provided therefor by the public employees' retirement system, which claim shall contain the name, address and date of birth of the claimant, *and of the volunteer fireman if other than the claimant;* the fiscal year for which eligibility shall commence; the years during which service as a volunteer fireman was rendered and the name or names of the volunteer fire company or companies with which such service was rendered. Such claim shall be filed on or before the first day of May of any year. The public employees' retirement system may require such proof of age and service as it may deem proper, but the certificates filed or to be filed under section 11-2007 and subparagraph 2 of section 11-2023 shall be accepted by the public employees' retirement system as prima facie proof of such service. If such claim be properly filed and such claimant be found by the public employees' retirement system properly qualified to participate in such volunteer firemen's pension plan, then the name of the claimant shall be added to the list of qualified *persons* and the claimant shall then be entitled to participate in said volunteer firemen's pension plan as of the fiscal year beginning the first day of July following the filing of such claim." Filing pension claims—procedure. Form. Proof. List of qualified persons.

Section 4. Section 11-2025, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-2025. **Payment of a claim — beneficiaries of decedent.** 1. Upon receipt of a claim under subparagraphs one (1), two (2), three (3) and four (4), or any thereof, of section 11-2022, by the industrial accident board, if the same is found to be in compliance with the provisions of subsection one (1) of section 11-2024, the board must order the allowance thereof, and pay the same by warrants drawn upon the volunteer firemen's fund to the order of the attending physician or surgeon, attending nurse, and hospital. Payments by industrial accident board.

2. All payments under the volunteer firemen's pension plan shall be approved by the public employees' retirement system and paid by warrants drawn upon the Pension payments by public employees retirement system.

HeinOnline -- 1971 vol. I 537 1971

earmarked revenue fund, payable to the order of the individual qualified volunteer fireman; provided, however, In event of death. that in the event of the death of any *otherwise* qualified volunteer fireman *before reaching the age of fifty-five (55) years, or in the event of the death of any such volunteer fireman after he has qualified for payments hereunder but before he has received payments hereunder totaling at least two thousand dollars ($2,000);* and if such deceased volunteer fireman shall have left a widow, *then such pension shall be paid or continue to be paid to said widow* by a warrant or warrants drawn upon the earmarked revenue fund and payable to the order of said widow, *until her death or remarriage; or if said deceased volunteer fireman shall have left no widow but shall have left a child or children under the age of eighteen (18) years, then such pension shall be paid or continue to be paid* to the guardian or other person having custody of the said child or children, *until the youngest child shall reach* the age of eighteen *(18)* years. *Provided, further, that in the event of such payments after the death of a volunteer fireman, to or for his widow or children, then such pension shall terminate, and no further payments shall be made hereunder, when a total of two thousand dollars ($2,000) shall have been paid upon such pension, including any payments made to the volunteer fireman before his death.* If such deceased volunteer fireman shall leave neither widow nor child under the age of eighteen (18) years, then his pension shall terminate at the end of the month prior to the month in which his death occurs."

Widow's pension.

Guardian of children under 18 years of age.

Maximum—$2,000.

Termination.

Repealing clause. Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately. Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1971

CHAPTER NO. 81

An Act Amending Section 16-3705, R.C.M. 1947, Relating to Qualifications and Tenure of Deputy Sheriffs.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 16-3705, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 538 1971

"16-3705. **Qualifications of deputy sheriffs, marshals and policemen.** (1) No sheriff of a county, mayor of a city, or other persons authorized by law to appoint special deputies, marshals, or policemen in this state to preserve the public peace and prevent or quell public disturbance, shall hereafter appoint as such special deputies, marshals, or policemen any person who shall not have resided continuously in this state for a period of one year at least, and in the county where such appointment is made for the period of at least six (6) months prior to the date of said appointment; provided, that the provisions of this section shall not apply in cases of such officers summoning a posse forthwith to quell public disturbance or domestic violence.

Qualifications of special deputies, marshals or policemen.

Residency.

Exceptions.

(2) No sheriff shall employ as a deputy any individual who does not possess all the following qualifications:

Qualifications for deputy sheriff.

(a) graduate of an accredited high school or the equivalent thereof;

(b) good moral character;

(c) never been convicted of a felony;

(d) has not within five (5) years immediately preceding his date of employment been affiliated in any manner with a subversive organization;

(e) been examined by a physician licensed to practice in the state of Montana within thirty (30) days immediately preceding his date of employment and has been pronounced in good physical condition.

Subsection (2) of this section shall not be applicable to any deputy sheriff whose term of employment commenced prior to the effective date of this act.

Exceptions.

(3) Any person whose term of employment as a deputy sheriff commences subsequent to the effective date of this act shall serve a one-year probationary period and that during this one-year period the employment of any such deputy may be terminated by the sheriff with or without cause and without recourse to the sheriff under the terms of this act.

One-year probationary period.

(4) It shall be the duty of the sheriff to cause all deputies whose term of employment commenced subsequent to the effective date of this act to attend that

Required attendance at academy.

HeinOnline -- 1971 vol. I 539 1971

academy provided for by chapter 52, Title 75, R.C.M. 1947, except that the sheriff may accept reasonable delays in attendance at the academy as shown by the deputy's declared intention of attending. Failure to satisfactorily complete the course offered by said academy shall be deemed cause to terminate a deputy's employment.

Cause for termination.

Termination for cause.

(5) Any deputy sheriff now employed or that may hereafter be employed shall continue in service until relieved of his employment in the manner hereinafter provided and only for one or more of the following specified causes:

(a) conviction of a felony subsequent to the commencement of such employment;

(b) willful disobedience of an order or orders given by the sheriff;

(c) drinking intoxicating liquor while in uniform or while on official duty or being intoxicated in a public place while in uniform or while on official duty;

(d) sleeping while on duty;

(e) incapacity materially affecting ability to perform official duties;

(f) gross inefficiency in the performance of official duties;

(g) participation in any political campaign as a candidate or the solicitation of political support for any candidate for public office.

Sworn statement of causes.

(6) When a sheriff terminates the employment of a deputy he shall at the time of termination cause to be served upon said deputy a statement in writing subscribed and sworn to by the sheriff setting forth the cause or causes for the discharge or termination of the deputy's employment.

Within 30 days application for hearing.

(7) Any deputy sheriff whose employment is terminated from and after the effective date of this act, may within thirty (30) days from the date of the termination of his employment make application to the district court of the county wherein the deputy was employed for a hearing before the court, with or without jury, on the charges resulting in the deputy's termination of employment or discharge. In the event that a deputy prevails at

HeinOnline -- 1971 vol. I 540 1971

the hearing he shall be entitled to be reinstated as a deputy sheriff at the same salary he received prior to his discharge or termination of employment and he shall also be entitled to any rights that might have accrued to his benefit prior to his discharge or termination of employment, including that salary which he would have received but for the termination." Reinstatement. Restoration of rights.

Approved February 27, 1971

CHAPTER NO. 82

An Act to Subject Corporations to an Income Tax if They Are Not Subject to the Corporation License Tax; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is the intent of the legislative assembly that the corporation license tax shall be applied to all corporations subject to taxation under chapter 15, Title 84, R.C.M. 1947. The income tax provided by this act shall be applied to corporations that are not taxable under chapter 15, Title 84, R.C.M. 1947, but are taxable under an income tax. Application of act.

Section 2. This act shall be known as and may be cited as the "Corporation Income Tax" and it shall be administered by the state board of equalization. "Corporation income tax."

Section 3. (1) There is hereby imposed upon every corporation for each taxable year an income tax at the rate specified in section 84-1501, R.C.M. 1947, upon its net income derived from sources within this state for taxable years beginning after December 31, 1970, other than income for any period for which the corporation is subject to taxation under chapter 15, Title 84, R.C.M. 1947, according to or measured by its net income. Tax on net income for taxable years beginning after December 31, 1970.

(2) Income from sources within this state includes income from tangible or intangible property located in or having a situs in this state and income from any activities carried on in this state, regardless of whether carried on in intrastate, or interstate or foreign commerce. Income from sources within this state defined.

Section 4. There shall be offset against the corporation income tax imposed for any period the amount of Offset.

HeinOnline -- 1971 vol. I 541 1971

any tax imposed against it for the same period under chapter 15, Title 84, R.C.M. 1947. In the event that taxes, interest and penalties have been or will be assessed against, paid by or collected from a corporation under this chapter, which assessment, payment or collection should have been made under chapter 15, Title 84, R.C.M. 1947, such taxes, interest and penalties shall be considered as having been assessed, paid or collected under chapter 15, Title 84, R.C.M. 1947, as of the date they were made.

Duty to file information return.

Assessment of tax.

Section 5. When a corporation formerly subject to tax under chapter 15, Title 84, R.C.M. 1947, becomes subject to tax under this act, it shall file an information return for the income year in which the change occurs. The tax for the year in which the change occurs will be assessed under chapter 15, Title 84, R.C.M. 1947, and not under this act. For years subsequent to the year in which the change occurs, the tax will be assessed under this act.

Incorporation by reference.

Section 6. The provisions of the following sections of chapter 15, Title 84, R.C.M. 1947, are incorporated into this act by reference and made a part hereof.

(1) That part of section 84-1501, R.C.M. 1947, which defines the term "corporation" and that part which specifies the classes of organizations whose income shall not be taxed.

Exceptions.

(2) Sections 84-1501.4, 84-1502, 84-1503, 84-1504, 84-1505, 84-1505.1, 84-1506, 84-1507, 84-1508, 84-1508.1, 84-1508.2, 84-1509, 84-1510, 84-1512, 84-1513, 84-1516, 84-1517, and 84-1518, R.C.M. 1947, except that the term "gross income" shall be construed as excluding the net amount of interest income from valid obligations of the United States and except that wherever the words "tax", "license tax", "license fee", "corporation excise tax", or like words appear, referring to the tax imposed under chapter 15, Title 84, R.C.M. 1947, there shall be substituted the words "income tax".

Powers and duties of state board.

Section 7. The state board of equilization may employ personnel and adopt rules, regulations and forms as the board finds necessary to place this act in operation and to carry out its provisions.

Disposition of net revenue.

Section 8. The net revenue from the tax imposed by this act shall be disposed of in the same manner as revenue

HeinOnline -- 1971 vol. I 542 1971

from the corporation license tax as provided in section 84-1901, R.C.M. 1947.

Section 9. This act is effective upon its passage and approval. Effective immediately.

Approved February 27, 1971

CHAPTER NO. 83

An Act to Repeal the Taxpayer Qualification of Electors Voting at School Elections for Issuing School District Bonds, Additional Levy for General Fund, Consolidation or Annexation with Assumption of Bonded Indebtedness, and Building Reserve Fund Authorization; to Repeal the Taxpayer Qualification of Petitioners for Elementary District Territory Transfer; Amending Sections 75-6410, 75-6412, 75-6414, 75-6509, 75-6516, 75-6923, 75-7112, 75-7113, 75-7114, 75-7117, 75-7134, and 75-7205, R.C.M. 1947; Repealing Section 75-6411, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Legislative policy and purpose.** Section 2 of article IX of the Montana constitution provides that in order to entitle a person to vote upon a question which may be submitted to a vote of the people or electors, if the question concerns thte creation of any levy, debt or liability, he must, in addition to possessing other qualifications, be a taxpayer whose name appears on the last preceding completed assessment roll. Recent decisions of the Supreme Court of the United States hold that similar provisions in the constitutions and statutes of other states are in conflict with the equal protection clause of the fourteenth amendment to the Constitution of the United States. The ability of the school districts to provide funds needed for essential governmental purposes depends in substantial part upon their ability to create valid levies, debts and liabilities and, when the same are required by law or the constitution to be submitted to a vote of the people or electors, to record and canvass such vote in such manner as to determine finally and conclusively whether or not the levy, debt or liability has been approved by the required majority vote of the electors

Montana constitution provision.

Conflict with constitution of United States.

HeinOnline -- 1971 vol. I 543 1971

Policy and purpose of act.

qualified and offering to vote thereon. It is therefore the policy and purpose of this law to eliminate all statutory electors' qualifications for voting on the creation of any school district levy, debt or liability except such qualifications as are validly required by or pursuant to the Montana constitution.

Amending clause.

Section 2. Section 75-6410, R.C.M. 1947, is amended to read as follows:

Qualifications for school electors.

"75-6410. **Qualification of elector.** *Any* person is entitled to vote at school elections if he has the following

Registration.

qualifications: (1) He has registered to vote with the county registrar in the manner provided by the general state election laws except in regard to the closure of elector registration as provided in section 75-6413;

Age.

(2) He is *the minimum age for voting as provided by the Constitution of the state of Montana;*

Residency.

(3) *He has met the residence requirements for voting as provided by the Constitution of the state of Montana;*

Citizenship.

(4) He is a citizen of the United States.

Felon cannot vote.

No person convicted of a felony has the right to vote unless he has been pardoned.

Insane cannot vote.

No person adjudicated insane has the right to vote unless he has been restored to capacity as provided by law."

Amending clause.

Section 3. Section 75-6412, R.C.M. 1947, is amended to read as follows:

"75-6412. **Elector challenges.** Any person offering

Challenge by elector.

to vote in a school election may be challenged by any elector of the district on any of the grounds for challenge established in section 23-3611, R.C.M. 1947. Such challenge shall be determined in the same manner, using the same oath as provided in chapter 36 of Title 33, R.C.M. 1947.

Penalties for perjury.

Any person who shall have been challenged under any of the provisions of this section and who shall swear or affirm falsely before any school election judge shall be guilty of perjury and shall be punished accordingly."

Amending clause.

Section 4. Section 75-6414, R.C.M. 1947, is amended to read as follows:

"75-6414. **Listing of registered electors.** After closing

HeinOnline -- 1971 vol. I 544 1971

registration the county registrar shall prepare a list of registered electors for each polling place established by the trustees. The list for each polling place shall be prepared in the format of a precinct register book." List of registered electors. Format.

Section 5. Section 75-6509, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-6509. **Consolidation or annexation election with assumption of bonded indebtedness.** A consolidation election involving the mutual assumption of bonded indebtedness by the elementary districts to be consolidated, as prescribed in section 75-6506, or an annexation election involving the joint assumption of bonded indebtedness by the elementary district to be annexed, as prescribed in section 75-6508, shall comply with the following procedures in addition to those prescribed by this title for other school elections: *(1) In a consolidation election the ballots shall read, after stating the consolidation proposition, "FOR consolidation with assumption of bonded indebtedness" and "AGAINST consolidation with assumption of bonded indebtedness."* Consolidation election. Annexation election. Form of ballot.

(2) In an annexation election the ballots shall read, after stating the annexation proposition, "FOR annexation with assumption of bonded indebtedness" and "AGAINST annexation with assumption of bonded indebtedness." Form of ballot.

(3) Any elector qualified to vote under the provisions of section 75-6410 may vote. Electors.

(4) When the trustees in each elementary district conducting an election canvass the vote under the provisions of section 75-6423, they shall decide according to the following procedure, if the proposition has been approved: Canvass. Determination of approval.

(a) Determine if a sufficient number of the qualified electors of the district have voted to validate the election and have voted to approve the election proposition in the same manner required for bond elections by section 75-7117; *and*

(b) When the proposition is approved under subsection (3) (a), determine the number of votes 'FOR' and 'AGAINST' the proposition. The proposition shall be approved in the district if *a majority of those voting approve the proposition.* If the proposition is disapproved under either the provisions of subsection (3) (a) or (3) *(b)*, the proposition shall be disapproved in the district." Majority.

HeinOnline -- 1971 vol. I 545 1971

Amending clause. Section 6. Section 75-6516, R.C.M. 1947, is amended to read as follows:

"75-6516. **Transfer of territory from one elementary district to another.** A majority of the electors of any elementary district, who are qualified to vote under the provisions of section *75-6410* and who reside in territory which is a part of an elementary district, may petition the county superintendent to transfer such territory to another elementary district when: (1) such territory is contiguous to the district to which it is to be attached;

Petition by majority of electors of elementary district.

Transfer of territory.

(2) such territory is not located within three miles, over the shortest practical route, of an operating school of the district from which it is to be detached; and

(3) the transfer of such territory will not reduce the taxable value of the district to less than seventy-five thousand dollars ($75,000) unless the remaining territory of the district will contain not less than fifty thousand (50,000) acres of nontaxable Indian land.

Form of petition. The petition shall be addressed to the county superintendent and shall describe the territory that is requested to be transferred and to what district it is to be transferred, state the reasons why such transfer is requested and state the number of elementary school-age children residing in such territory.

On receipt of a valid petition for a territory transfer, the county superintendent shall file such petition, set a hearing place, date, and time for consideration of the petition that is not more than forty (40) days after the receipt of the petition and give notice of the place, date, and time of the hearing. The notices shall be posted in the districts affected by the request in the manner prescribed in this title for school elections, with at least one such notice posted in the territory to be transferred.

Hearing.
40 days.
Notice.
Posting.

Conduct of hearing. The county superintendent shall conduct the hearing as scheduled, and any resident or taxpayer of the affected districts shall be heard. If the county superintendent shall deem it advisable and in the best interests of the residents of such territory, he shall grant the petitioned request and order the change of district boundaries to coincide with the boundary description in the petition. Otherwise, he shall, by order, deny the request. Either of the orders shall be

Order by county superintendent.

HeinOnline -- 1971 vol. I 546 1971

final thirty (30) days after its date unless it is appealed to the board of county commissioners by a resident or taxpayer of either district affected by the territory transfer. The decision of the board of county commissioners, after a hearing on such matter and consideration of the material presented at the county superintendent's hearing, shall be final.

30 days. Appeal.

Hearing.

Final decision.

Whenever a petition to transfer territory from one elementary district to another elementary district would create a joint elementary district or affect the boundary of an existing joint elementary district, the petition shall be presented to the county superintendent of the county where the territory is located. Such county superintendent shall notify any other county superintendents of counties with districts affected by such petition and the duties prescribed in this section for the county superintendent and the board of county commissioners shall be performed jointly by such county officials."

Joint elementary district.

Petition.

Notice.

Joint duties.

Section 7. Section 75-6923, R.C.M. 1947, is amended to read as follows:

Amending clause.

"75-6923. **Additional levy for general fund and election for authorization to impose.** The trustees of any district may propose to adopt a general fund budget in excess of the general fund budget amount for such district as established by the schedule in section 75-6905 for any of the following purposes: (1) building, altering, repairing or enlarging any schoolhouse of the district;

Excess general fund budget.

Purposes.

(2) furnishing additional school facilities for the district;

(3) acquisition of land for the district;

(4) proper maintenance and operation of the school programs of the district.

When the trustees of any district determine that an additional amount of financing is required for the general fund budget that is in excess of the statutory schedule amount, the trustees shall submit the proposition of an additional levy to raise such excess amount of general fund financing to the electors who are qualified, under section *75-6410,* to vote upon such proposition. Such special election shall be called and conducted in the manner prescribed by this title for school elections. The ballot for such election shall state the amount of money to be raised

Election.

Conduct.

Ballot.

HeinOnline -- 1971 vol. I 547 1971

by additional property taxation, the approximate number of mills required to raise such money, and the purpose for which such money will be expended, and it shall be in the following format:

Format.

PROPOSITION

Shall a levy be made in addition to the levies authorized by law in such number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy), and being approximately (give number) mills, for the purpose of (insert the purpose for which the additional tax levy is made)?

☐ FOR the additional levy.

☐ AGAINST the additional levy.

Majority vote.

If the election on any additional levy for the general fund is approved by a majority vote of those electors voting at such election, the proposition shall carry and the trustees may use any portion or all of the authorized amount in adopting the preliminary general fund budget.

Budget form levy.

The trustees shall certify the additional levy amount authorized by such a special election on the budget form that is submitted to the county superintendent and the county commissioners shall levy such number of mills on the taxable value of all taxable property within the district as prescribed in section 75-6926, as are required to raise the amount of such additional levy.

Limitations.

Authorization to levy an additional tax under the provisions of this section shall be effective for only one school fiscal year and shall be authorized by a special

August 1.

election conducted before the first day of August of the school fiscal year for which it is effective. Only one such additional levy for the maintenance and operation of the school programs of a high school district may be imposed by a high school district in a given school fiscal year."

Amending clause.

Section 8. Section 75-7112, R.C.M. 1947, is amended to read as follows:

Petition for school bond election—requirements.

"75-7112. **Form, contents and circularization of petition proposing school district *bond* election.** Any petition for the calling of an election on the proposition of issuing school district bonds shall: (1) plainly state each pur-

HeinOnline -- 1971 vol. I 548 1971

pose of the proposed bond issue and the estimated amount of the bonds that would be issued for each purpose;

(2) be signed by not less than twenty percent (20%) of the school district electors qualified to vote under the provisions of section *75-6410* in order to constitute a valid petition;

(3) be a single petition or it may be composed of more than one petition, all being identical in form, and after being circulated and signed they shall be fastened together to form a single petition when submitted to the county registrar;

(4) be circulated by any one or more qualified electors of the school district; and

(5) contain an affidavit of each registered elector circulating a petition attached to the portion of the petition he circulated. Such affidavit shall attest to the authenticity of the signatures and that the signers knew the contents of the petition at the time of signing it."

Amending clause.

Section 9. Section 75-7113, R.C.M. 1947, is amended to read as follows:

"75-7113. **Validation of petition and county registrar's certificate.** The petitioners for a school district bond election shall submit their petition to the county registrar of the county where the school district is located for validation of the signatures on the petition. The county registrar shall examine the petition and shall attach or endorse thereon a certificate which shall state: (1) the total number of electors of the school district who are, at the time, qualified to vote under the provisions of section *75-6410*;

Validation of signatures.

Certificate requirements.

(2) which and how many of the persons whose names are subscribed to the petition possess the qualifications to vote on a bond proposition; and

(3) whether the number of qualified signers established in subsection (2) is more or less than twenty percent (20%) of the total number of qualified electors established in subsection (1).

Duty to forward to school district.

After completing the examination, the county registrar shall immediately send the petition and his certificate to the school district. The county registrar shall not re-

HeinOnline -- 1971 vol. I 549 1971

ceive compensation for the examination of school district bond petitions."

Section 10. Section 75-7114, R.C.M. 1947, is amended to read as follows:

"75-7114. **Trustees' consideration of validated petition proposing bond election.** When a school district receives a school district bond petition from the county registrar, a meeting of the trustees shall be called for the consideration of the petition. The trustees shall be the judges of the adequacy of the petition and their findings shall be conclusive against the school district in favor of the innocent holder of bonds issued pursuant to the election called and held by reason of the presentation of such petition. The petition shall be valid if the trustees find that it is in proper form and bears the signatures of not less than twenty percent (20%) of the school district electors who are qualified to vote under the provisions of section *75-6410*."

Trustees meeting.

Determination of validity of petition.

Amending clause.

Section 11. Section 75-7117, R.C.M. 1947, is amended to read as follows:

"75-7117. **Determination of approval or rejection of proposition at bond election.** When the trustees canvass the vote of a school district bond election under the provisions of section 75-6423, they shall determine the approval or rejection of the school bond proposition in the following manner: (1) determine the total number of electors of the school district who are qualified to vote under the provisions of section *75-6410* from the list of electors supplied by the county registrar for such school bond election;

Canvass.

(2) determine the total number of qualified electors who voted at the school bond election from the tally sheet or sheets for such election;

(3) calculate the percentage of qualified electors voting at the school bond election by dividing the amount determined in subsection (2) by the amount determined in subsection (1); and

(4) when the calculated percentage in subsection (3) is forty percent (40%) or more, the school bond proposition shall be deemed to have been approved and adopted if a majority of the votes shall have been cast in favor

HeinOnline -- 1971 vol. I 550 1971

of such proposition, otherwise it shall be deemed to have been rejected; or

(5) when the calculated percentage in subsection (3) is more than thirty percent (30%) but less than forty percent (40%), the school bond proposition shall be deemed to have been approved and adopted if sixty percent (60%) or more of the votes shall have been cast in favor of such proposition, otherwise it shall be deemed to have been rejected; or

(6) when the calculated percentage in subsection (3) is thirty percent (30%) or less, the school bond proposition shall be deemed to have been rejected.

If the canvass of the vote establishes the approval and adoption of the school bond proposition, the trustees shall issue a certificate proclaiming the passage of such proposition and the authorization to issue bonds of the school district for the purposes specified on the ballot for such school district bond election." Trustees certificate.

Section 12. Section 75-7134, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-7134. **Purposes and petition for county high school bonds.** Any county where a county high school that has not been placed in a high school district is located may become indebted by the issuance of bonds for the purposes of: (1) purchasing or erecting a building or buildings for high school purposes; County high school bonds. Purposes.

(2) remodeling, enlarging, or repairing a building or buildings for high school purposes;

(3) purchasing equipment for high school purposes;

(4) purchasing, erecting, or equipping a high school dormitory or gymnasium;

(5) purchasing a suitable site or sites for such high school building; or

(6) refunding or redeeming any outstanding bonds originally issued for any of the foregoing purposes.

In order to initiate any bonding proposition for the above purposes, a petition signed by not less than twenty percent (20%) of the electors of the county who are qualified under section *75-6410* shall be presented to the Petition requirements.

HeinOnline -- 1971 vol. I 551 1971

trustees of the county high school. Such petition shall request the submission of a bond proposition to the qualified electors of the county, and shall specify the purpose or purposes of the proposed bond issue and the amount of bonds to be issued. Such petition shall conform with the petition requirements prescribed in section 75-7112. If the trustees of the county high school approve a validated petition for a bond proposition, they shall request the board of county commissioners of the county to submit such bond proposition to the qualified electors of the county."

Request for submission to electors.

Amending clause. Section 13. Section 75-7205, R.C.M. 1947, is amended to read as follows:

"75-7205. **Purpose and authorization of a building reserve fund by an election.** The trustees of any district, with the approval of the qualified electors of the district, may establish a building reserve for the purpose of raising money for the future construction, equipping or enlarging of school buildings or other buildings needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies: (1) the purpose or purposes for which the new or addition to the building reserve will be used;

Trustees may establish building reserve.

Resolution requirements.

(2) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(3) the total amount of money that will be raised during the duration of time specified in subsection (2); and

(4) any other requirements under section 75-6406 for the calling of an election.

Limitation on amount. The total amount of building reserve when added to the outstanding indebtedness of the district shall not be more than five percent (5%) of the value of the taxable property of the district. Such limitation shall be determined in the manner provided in section 75-7104. A building reserve tax authorization shall not be for more than twenty (20) years.

5%.

20 years.

Conduct of election. The election shall be conducted in accordance with the school election laws of this title and the electors qualified

HeinOnline -- 1971 vol. I 552 1971

to vote in the election shall be qualified under the provisions of section *75-6410*. The ballot for a building reserve proposition shall be substantially in the following form: Ballot format.

OFFICIAL BALLOT

SCHOOL DISTRICT BUILDING RESERVE ELECTION

Instructions to Voters: Make an X or similar mark in the vacant square before the words "BUILDING RESERVE — YES" if you wish to vote for the establishment of a building reserve (addition to the building reserve); if you are opposed to the establishment of a building reserve (addition to the building reserve) make an X or similar mark in the square before the words "BUILDING RESERVE — NO."

Shall the trustees be authorized to impose an additional levy each year for ..... years to establish a building reserve (add to the building reserve) of this school district to raise a total amount of ..... dollars ($.....), for the purpose(s) ....(here state the purpose or purposes for which the building reserve will be used).

☐ BUILDING RESERVE — YES

☐ BUILDING RESERVE — NO

The building reserve proposition shall be approved if a majority of those electors voting at the election approve the establishment of or addition to such building reserve. Approval by majority vote.

The annual budgeting and taxation authority of the trustees for a building reserve shall be computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve shall lapse when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve shall be used for such purpose or purposes before any money realized by the bond issue is used." Computation of amount. Effect of later bond issue. Use of monies.

Section 14. Section 75-6411, R.C.M. 1947, is repealed. Repealing clause.

HeinOnline -- 1971 vol. I 553 1971

Effective immediately.

Section 15. This act is effective immediately upon passage and approval.

Approved February 27, 1971

CHAPTER NO. 84

An Act to Amend Section 11-1829, R.C.M. 1947, to Permit the Board of Trustees to Invest in Certificates of Deposit.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1829, R.C.M. 1947, is amended to read as follows:

"11-1829. **Trustees' duties — auditing of fund — investment — report on retirement of policemen.** The board of trustees of said fund, shall audit the same from time to time at least twice during each year, and report the condition of said fund annually to the city or town council on or before the first day of April of each year. And the said board of trustees, shall invest the money in said fund from time to time as may be directed by the city or town council. The money of said fund shall be invested *only* in bonds of the United States or of the state of Montana, or bonds or warrants of the city or town, in which said fund exists, which are general liabilities of the whole city or town, *or in certificates of deposit issued by any state or national bank operating in Montana.* And said trustees shall make sale of such bonds, securities, *or certificates* when desirable and as directed by the city or town council. All such bonds, warrants, *and certificates* shall be deemed part of the said fund and shall be kept in the possession of the city or town treasurer, and the treasurer shall be responsible therefor in the same manner as he is for all other moneys or funds of the city or town. Before any member of the police department is placed on the reserve list by the city council, the said board of trustees of said fund shall shall report to the city council in writing their recommendations as to whether or not such member shall be placed upon said reserve list."

Duty to audit.

Report to city or town council April 1.

Investment.

Limitations on investments.

Certificates of deposit. Sales.

Treasurer is custodian.

Police reserve list.

Report to city council.

Approved February 27, 1971

HeinOnline -- 1971 vol. I 554 1971

CHAPTER NO. 85

An Act to Amend Section 82-3001, R.C.M. 1947, to Include the Secretary of the Livestock Commission and the Executive Officer of the Livestock Sanitary Board on the Interdepartmental Advisory Council.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 82-3001, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-3001. **Creation of interdepartmental advisory council.** There is hereby created an interdepartmental advisory council, to be known as the council on natural resources and development (hereinafter referred to as the "council"). It shall be composed of the following: The commissioner of state lands and investments, director of the department of state fish and game, state forester, secretary of the grass conservation commission, director of the Montana water resources board, executive secretary of the oil and gas conservation commission, director of the state bureau of mines and geology, state highway engineer, commissioner of agriculture, executive officer of the state board of health, director of planning and economic development, executive secretary of the state soil conservation committee, chairman of the outdoor recreation advisory committee, a member of the water well contractor's examining board, the secretary of the water pollution council, a member of the sanitarians registration council, *secretary of the livestock commission, and the executive officer of the livestock sanitary board.*" Interdepartmental advisory council created. Composition.

Approved February 27, 1971

CHAPTER NO. 86

An Act to Provide a Deductible Plan of Insurance for State Buildings and Their Contents.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. A deductible plan of insurance may be established for use by the state in insuring state buildings and their contents. Deductible plan of insurance for state buildings.

HeinOnline -- 1971 vol. I 555 1971

Administration.

Section 2. The administration of this act shall be placed in the department of administration with the cooperation of the insurance commissioner.

Approved February 27, 1971

CHAPTER NO. 87

An Act Amending Section 66-411, R.C.M. 1947, Relating to the Practice of Barbering, Increasing the Fees Charged for an Annual License Fee, and Increasing the Initial Inspection Fee of Barber Shops.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-411, R.C.M. 1947, is amended to read as follows:

"66-411. **Fees to be paid by apprentices, students, barbers and barbershops.** (1) The fee to be paid by an apprentice for an apprentice examination and an apprentice card shall be twenty-five dollars ($25). The fee to be paid by an applicant for an examination to determine his or her fitness to receive a certificate of registration to practice barbering as defined in this act, shall be twenty dollars ($20), and for the issuance of said certificate an additional five dollars ($5).

Barber apprentice fees—$25.

Examination fee—$20.

Certificate—$5.

(2) Each person registered as a barber or barber apprentice, shall on or before the first day of July of each year pay a license fee of five dollars ($5) for the renewal of his or her certificate of registration, and if any barber shall fail to have such certificate renewed on or before the first day of July of each year such barber shall upon the renewal of said certificate of registration pay a penalty, or a restoration fee of ten dollars ($10), in addition to the regular fee of five dollars ($5) provided for herein, and if a certificate of registration is not renewed within one (1) year after date of expiration thereof, such barber shall not be entitled to have such certificate of registration renewed, or a new certificate of registration issued, without first applying for and taking the examination and paying the fees provided for by this section. Provided, further, however, that physically handicapped men and women, trained for the barber profession by the state bureau of civilian rehabilitation and certified by that de-

July 1.

License fee—$5.

Restoration fee—$10.

Failure to renew within one year.

Examination.

Physically handicapped—exemptions.

HeinOnline -- 1971 vol. I 556 1971

partment as having successfully completed a nine (9) months' course in a reputable barber college will not be required to pay any fees, but will for a period of one (1) year immediately following their training be exempted from all except the sanitary provisions of the barber act, or any of its amendments, and provided, further, that no other or additional license, or fee, shall be imposed upon barbers, or barber apprentices, by any municipality or other subdivision of the state of Montana.

Further fees prohibited.

(3) In addition to the fees and charges now provided by existing law, all barbershops herefore established, and which have been under the inspection of the board of barber examiners, shall pay an annual license fee of *five* dollars *($5)*. Barbershops hereafter established shall pay an initial inspection fee of *twenty* dollars *($20)* for the first year or portion thereof, and shall pay an annual license fee of *five* dollars *($5)*.

Barbership license fee—$5.

New shop inspection fee—$20.

(4) All barbershops, schools or college licenses shall expire on the first day of July of each year, following the issuance of said license, and every owner or manager of a barbershop, school or college which continues in active operation shall annually, on or before July first renew his barbershop, school or college license and pay the required fee. For the first year this act is in effect, all licenses which expire on the thirty-first day of May shall be deemed in force until the first day of July.

Licenses expire July 1.

Renewal annually.

Every barbershop which shall fail to have such license renewed on or before the first day of July of each year shall upon the renewal thereof pay a penalty, or a restoration fee, of ten dollars ($10), and each barber school or college which shall fail to have such license renewed on or before the first day of July of each year shall upon the renewal thereof pay penalty, or restoration fee, of fifty-five dollars ($55)."

Shop restoration fee—$10.

School restoration fee—$55.

Approved March 1, 1971

CHAPTER NO. 88

An Act to Amend Section 87-111, R.C.M. 1947, Which Section is a Part of the Unemployment Compensation Law, by Including as a Part of the Unemployment Com-

HeinOnline -- 1971 vol. I 557 1971

pensation Account, Payments Made in Lieu of Contributions by Nonprofit Organizations and the State and its Political Subdivisions in Conformity with Public Law 91-373, Employment Security Amendments of 1970.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 87-111, R.C.M. 1947, is amended to read as follows:

"87-111. **Unemployment compensation account. Establishment and control.** There is hereby established separate and apart from all public moneys or funds of this state, an account in the agency fund known as the unemployment compensation account, which shall be administered by the commission exclusively for the purposes of this act. Any reference to the unemployment compensation fund in this code shall be taken to mean the unemployment compensation account in the agency fund. This account shall consist of (1) all contributions collected under this act, inclusive of voluntary contributions as provided in section 87-109, (c) (4), *and payments made in lieu of contributions as provided in section 87-109, (b) (2) and (4);* (2) interest earned upon any moneys in the account; (3) any property or securities acquired through the use of moneys belonging to the account; (4) all earnings of such property or securities; and (5) all money credited to this state's account in the unemployment trust fund pursuant to section 903 of the Social Security Act, as amended. All moneys in the account shall be mingled and undivided."

Unemployment compensation account established.

Sources of funds.

Approved March 1, 1971

CHAPTER NO. 89

An Act to Amend Section 32-2146, R.C.M. 1947, to Provide Authority for the Highway Commission to Establish Speed Zones on State and Federal-Aid Highways in Municipal and Urban Areas.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 32-2146, R.C.M. 1947, is amended to read as follows:

"32-2146. **When local authorities may and shall alter**

HeinOnline -- 1971 vol. I 558 1971

limits. (a) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the speed permitted under this act is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe limit thereon which: Investigation. Local authority may declare speed limits.

1. Decreases the limit at intersection; or Intersections.

2. Increases the limit within an urban district but not to more than fifty-five (55) miles per hour during nighttime; or Urban districts.

3. Decreases the limit outside an urban district, but not to less than thirty-five (35) miles per hour. Outside urban district.

(b) Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper speed for all arterial streets and shall declare a reasonable and safe limit thereon which may be greater or less than the speed permitted under this act for an urban district. Arterial streets.

(c) Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway. Appropriate signs.

(d) *Speed limits on all federal-aid highways or extensions thereof in all municipalities or urban areas shall be established by the highway commission which shall have exclusive jurisdiction on such highways as in compliance with section 32-2144, R.C.M. 1947.*" Highway commission shall establish speed limits on federal-aid highways.

Approved March 1, 1971

CHAPTER NO. 90

An Act to Remove the Residence Requirement for Persons Applying for Aid to Dependent Children; Amending Section 71-504, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 71-504, R.C.M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1971 vol. I 559 1971

Assistance to dependent children.

"71-504. **Eligibility for assistance in aid to dependent children.** Assistance shall be granted under this chapter to any dependent child — as defined in section 71-501 — who:

Need.

(a) Is in need of such assistance;

Resident in state.

(b) *Is residing in the state on the date the application is filed.* A relative whose needs are included in a grant must meet the same residence requirements as does the child concerned. Any dependent child or relative with whom the child is living meeting the above requirements shall be entitled to the assistance herein provided for, but the state shall pay the full amount of such assistance exclusive of the federal share unless and until the child and/or the relative with whom the child is living has been a resident of the county for a period of one (1) year."

Conditions of payment.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved March 1, 1971

CHAPTER NO. 91

An Act to Amend Section 87-129, R.C.M. 1947, Which Section is a Part of the Unemployment Compensation Law, by Redefining the Responsibilities of the Commission in Participating in the Arrangements Approved by the Secretary of Labor for Combining Wages in Employment in Two or More States in Conformity with Public Law 91-373, Employment Security Amendment of 1970.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87-129, R.C.M. 1947, is amended to read as follows:

Commission authorized to enter into reciprocal benefit arrangements.

"87-129. **Reciprocal benefit arrangements.** The commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government, whereby individuals performing services in this and other states for a single employing unit

HeinOnline -- 1971 vol. I 560 1971

under circumstances not specifically provided for in this act, or under similar provisions of the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states and whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the commission finds will be fair and reasonable as to all affected interests, and will not result in any substantial loss to the fund.

The commission *shall participate in any* arrangements, *approved by the U.S. secretary of labor,* with the appropriate agencies of the other states or of the federal government whereby wages or services, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government, shall be deemed to be wages for employment by employers for benefit purposes;

Approval—secretary of labor.

Provided that in any instance involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws that the base period of a single state law will be used; and

Mandatory provisions.

Provided that such combining of wages will not involve the duplicate use of such wage credits; and

Provided *that* such other state agency or agency of the federal government has agreed to reimburse the unemployment compensation fund for such portion of benefits paid under this act upon the basis of such wages or services as the commission finds will be fair and reasonable as to all affected interests; and whereby the commission will reimburse other state or federal agencies charged with the administration of unemployment compensation laws, with such reasonable portion of benefits, paid under the law of any such other states or of the federal government upon the basis of employment or wages for employment by employers, as the commission finds will be fair and reasonable to all affected interests. Reimbursements so payable shall be deemed to be benefits for the purposes of this act. The commission is hereby authorized to make to other states or federal agencies, reimbursements from or to the unemploy-

Agreements to reimburse funds.

HeinOnline -- 1971 vol. I 561 1971

ment compensation fund, in accordance with arrangements made pursuant to this section."

Approved March 1, 1971

CHAPTER NO. 92

An Act to Amend Section 77-1002, R.C.M. 1947, to Provide for Hiring Veterans of the Korean War and the Vietnam Conflict.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 77-1002, R.C.M. 1947, is amended to read as follows:

Duties of commission-discharged veterans and their families.

"77-1002. **Duty of commission.** It shall be the duty of the commission and it shall have power to establish a state-wide service for discharged veterans and their families; to actively cooperate with state and federal agencies having to do with the affairs of veterans and their families; and to promote the general welfare of all veterans and their families. In carrying out the purposes of this act the commission may employ a director, service officers, assistants, clerks, or other personnel, all of whom must be residents of the state of Montana, prescribe their duties and fix and pay their compensation; and establish a state headquarters and such other offices as may be necessary to carry out the purposes of this act. All male employees of the commission shall have served in the military forces of the United States during World War I, World War II, *the Korean War, or the Vietnam Conflict,* and shall have been honorably discharged therefrom; whenever possible female employees shall also be persons honorably discharged from service during World War I, World War II, *the Korean War, or the Vietnam Conflict;* preference for all appointments shall be given to disabled veterans."

Authority to employ personnel.

Mandatory hiring of veterans.

Preference given disabled veterans.

Approved March 1, 1971

CHAPTER NO. 93

An Act Adding New Section 59-1008, R.C.M. 1947, to Provide Uniform Sick Leave Benefits for Public Employees.

HeinOnline -- 1971 vol. I 562 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is added to Title 59, chapter 10, R.C.M. 1947, a new section to read as follows:

59-1008. **Sick leave.** (1) An employee of the state of Montana, or of any county or city thereof, shall be granted sick leave with full pay at the rate of one (1) working day for each month of service without restriction as to the number of working days he may accumulate.

Public employes sick leave.

1 day per month.

(2) He may not accrue sick leave during a leave of absence without pay, the duration of which exceeds fifteen (15) days. He is entitled to sick leave under the provisions of this act only after being continuously employed for ninety (90) days, upon the completion of which he is entitled to credit for sick leave earned during that period.

Limitations.

Leave of absence over 15 days.

90 day employment.

(3) Upon separation from service as an employee of the state of Montana or of any county or city thereof, the employee is entitled to a lump-sum payment equal to one-fourth (¼) of the pay attributed to his accumulated sick leave. The pay attributed to his accumulated sick leave shall be computed on the basis of the employees' salary at the time the sick leave accrued. Accrual of sick leave for the purposes of the lump-sum payment provided for in this subsection shall begin when this act becomes effective, and the payment therefor, shall be the responsibility of the state of Montana, or of any county or city thereof, wherein the sick leave accrues. However, no employee forfeits any rights or benefits he has previously accrued with respect to sick leave.

On termination.

Lump-sum.

One-fourth.

Computation of sick leave.

Accrual.

Responsibility.

Nonforfeiture.

(4) An employee of the state of Montana or of any county or city thereof who receives a lump-sum payment pursuant to this act and who is again employed by the state of Montana or by a county or city thereof may not be credited with any sick leave for which he has previously been compensated.

Reemployment.

(5) The department of administration of the state of Montana or of any county or city thereof, is responsible for the proper administration of sick leave and shall promulgate such rules and regulations as it deems necessary to implement the uniform administration of sick leave and the prevention of its abuse. When promulgated these rules and regulations are effective as to all employees of the state of Montana or any county or city thereof.

Administration.

Rules.

HeinOnline -- 1971 vol. I 563 1971

Penalties—abuse of sick leave.

(6) Abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments provided for in this act.

Approved March 1, 1971

CHAPTER NO. 94

An Act to Validate Records of Court Proceedings Prior to January 1, 1971, Containing Defects, Omissions, Informalities or Irregularities in Obtaining a Judgment or Decree Affecting Real Property, in Which Time for Appeal has Expired; Providing that Duly Certified Copies of Such Judgment or Decree May be Read in Evidence with the Same Effect as Judgments or Decrees Duly and Regularly Obtained, Recorded and Entered.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of court judgments or decrees affecting real property prior to January 1, 1971.

Section 1. Any judgment or decree of any court of this state affecting real property, provided that no action is now pending to set aside any such judgment or decree, which was, prior to January 1, 1971, copied into the proper book, kept in the office of the clerk of the district court and certified copy of which judgment or decree was, previous to the date this act takes effect, recorded in thte proper book, kept in the office of the county clerk and recorder, shall be deemed to impart after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, informality or irregularity in any of the court proceedings in the action in which such judgment or decree was entered and obtained, if time for appeal in the case has expired, and such judgment or decree shall not be deemed invalidated by reason of any such defect, omission, informality or irregularity; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date. Duly certified copies of such judgment or decree, or of the record thereof, may be read in evidence, with like effect as copies of a judgment or decree duly and regularly obtained and recorded and entered.

Certified copies as evidence.

Approved March 1, 1971

HeinOnline -- 1971 vol. I 564 1971

CHAPTER NO. 95

An Act Validating Deeds and Conveyances Made Prior to January 1, 1971, Which Are Defective in Execution or Acknowledgment, Providing that Such Instruments Shall be Conclusive Evidence of Title Against the Grantors.

Be it enacted by the Legislative Assembly of the State of Montana:

Deeds to real property prior to January 1, 1971—validity.

Section 1. All deeds to real property executed prior to January 1, 1971, in this state, or any state or territory of the United States, provided no action is now pending to set aside any such deed, which shall have been signed by the grantors in due form, shall be sufficient in law to convey the legal title to the premises therein described from the grantors to the grantees, without any other execution or acknowledgment or witnesses thereto whatever; and such deeds so executed shall be received in evidence in all courts in this state, and be conclusive evidence of the title to the lands therein described against the grantors, their heirs and assigns.

Conclusive evidence of title.

Approved March 1, 1971

CHAPTER NO. 96

An Act to Validate and Confirm Sales or Dispositions Heretofore Made or Attempted to be Made by Any County of Any Property in Which Such County Had or Claimed Any Right, Title or Interest, and All Instruments of Transfer or Conveyance Heretofore Made or Executed By Any County, and to Declare That All Such Sales, Dispositions and Instruments Have Vested in the Grantee or Purchaser, as of the Date Thereof, All Right, Title and Interest of the County In and to the Property Described or Covered.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of county sales and instruments of conveyance.

Section 1. All sales or dispositions heretofore made or attempted to be made by any county of any property in which such county had or claimed any right, title or interest are hereby validated and confirmed, and all instruments of transfer or conveyance heretofore made or executed by any county are hereby validated and confirmed,

HeinOnline -- 1971 vol. I 565 1971

and all such sales, dispositions and instruments are hereby declared to have vested in the grantee or purchaser, as of the date thereof, all right, title, estate and interest of such county in and to the property described or covered.

Approved March 1, 1971

CHAPTER NO 97

An Act Relating to Validation of Judicial Sales Prior to January 1, 1971, of Real Property and Curing Defects or Irregularities in the Issuance of Execution, Manner of Making or Conducting the Sale, or in the Recitals or References in Sheriffs' Deeds.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of judicial sales of real property prior to January 1, 1971.

Section 1. All judicial sales of real property prior to January 1, 1971, provided no action is now pending to set such sale aside, where made in this state on proceedings to satisfy valid judgments or decrees of any court and the moneys bidden thereon paid to the officer making such sale, shall be valid and sufficient in law to sustain a sheriff's deed based on such sale, and when no such deed has been executed, shall entitle such purchaser to such deed; and such deed, if now or when executed, shall be sufficient to convey all the title of judgment debtor at the time of such sale in the premises so sold to the purchaser at said sale, and all defects or irregularities in the issuance of execution, or the manner of making or conducting the sale, or in the recitals or references in such deed, shall be disregarded and such sale shall not be invalidated by reason of any such defect or irregularity.

Purchaser entitled to sheriff's deed.

Approved March 1, 1971

CHAPTER NO. 98

An Act Validating Deeds and Conveyances in Sales of Land and Personal Property Made by Trustees, Executors, Administrators and Guardians Prior to January 1, 1971, Curing Defects and Irregularities in Such Sales.

HeinOnline -- 1971 vol. I 566 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of sales by trustees, executors, administrators and guardians made prior to January 1, 1971.

Section 1. All sales, provided no action is now pending to set aside such deed or conveyance, by trustees, executors, administrators and guardians which previous to January 1, 1971, were made to purchasers for a valuable consideration, which consideration has been paid by such purchasers in good faith, and such sales shall not have been set aside by the district or probate court having jurisdiction thereof, shall be sufficient to sustain a trustee's, executor's, administrator's or guardian's deed, or conveyance to such purchaser, and in case such deed or conveyance shall not have been given, shall entitle such purchaser to such deed or conveyance; and such deed or conveyance, if now executed or when executed, shall be sufficient to convey to such purchaser all the title that such beneficiary, decedent or ward had in said real or personal property; and all irregularities in obtaining the order of the court for such sale, and all irregularities or defects in making or conducting such sale by said trustee, executor, administrator or guardian, shall be disregarded, and such sale shall not be invalidated by reason of any such defect or irregularity.

Approved March 1, 1971

CHAPTER NO. 99

An Act Validating Certain Instruments Affecting Real Property and Which Were Erroneously Executed or Acknowledged Prior to January 1, 1971; Imparting Notice By Recording Thereof; and Providing that Duly Certified Copies Thereof May Be Read in Evidence with Like Effect as Copies of an Instrument Duly Acknowledged and Recorded.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of instruments affecting real property prior to January 1, 1971.

Section 1. Any instrument affecting real property, provided no action is now pending to set such instrument aside, which was, previous to January 1, 1971, copied into the proper book kept in the office of the county clerk and recorder, shall be deemed to impart, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission or

HeinOnline -- 1971 vol. I 567 1971

informality in the execution of the instrument or in the certificates of acknowledgment thereof, or the absence of any such certificate; and all such instruments heretofore acknowledged by the vice-president and assistant secretary of any corporation, or by either of them, or other person duly authorized by resolution by such corporation executing the same on behalf of the corporation, and recorded, shall be valid and shall have the same force and effect as though acknowledged by the president or secretary; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date. Duly certified copies of the record of any such instrument may be read in evidence, with like effect as copies of an instrument duly acknowledged and recorded.

Certified copies as evidence.

Approved March 1, 1971

CHAPTER NO. 100

An Act to Amend Section 75-6110, R.C.M. 1947, Providing for an Increase in the Fine for Abuse of Teachers by Parents and Others.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-6110, R.C.M. 1947, is amended to read as follows:

Penalties for abuse of teachers.

"75-6110. **Abuse of teachers.** Any parent, guardian, or other person who shall insult or abuse a teacher anywhere on the school grounds or school premises shall be deemed guilty of a misdemeanor and, upon conviction of such misdemeanor by a court of competent jurisdiction, shall be fined no less than *twenty-five dollars ($25), nor* more than *five hundred dollars ($500).*"

Approved March 1, 1971

CHAPTER NO. 101

An Act to Amend Section 1, Chapter 4, (Sic) Laws of 1969, Compiled as Section 82-4101, R.C.M. 1947, Relating to Withdrawal of Retained Payments by Public Contractors and Adding Bank Certificates of Deposit

HeinOnline -- 1971 vol. I 568 1971

to the Obligations That May Be Deposited in Relation Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 1, chapter 194, Laws of 1969, compiled as section 82-4101, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-4101. **Contractor may withdraw funds retained by state upon depositing certain obligations with state treasurer — obligations that may be deposited.** The contractor under any contract heretofore or hereafter made or awarded by the state of Montana, or any department, agency or political subdivision thereof, including any contract for the construction, improvement, maintenance or repair of any road or highway or the appurtenances thereto, may, from time to time, withdraw the whole or any portion of the sums otherwise due to the contractor under such contract which are retained by the state of Montana, or any department, agency or political subdivision thereof, pursuant to the terms of such contract provided the contractor shall deposit with the treasurer of the state of Montana (1) United States treasury bonds, United States treasury notes, United States treasury certificates of indebtedness or United States treasury bills; or (2) bonds or notes of the state of Montana; or (3) bonds of any political subdivision of the state of Montana, of a market value not exceeding par, at the time of deposit; *or certificates of deposit drawn and issued by a national banking association located in the state of Montana or by any banking corporation incorporated under the laws of the state of Montana and such deposited obligations shall be* at least equal in value to the amount so withdrawn from payments retained under such contract."

Contractor may withdraw funds retained by state.

Deposit of securities with treasurer.

Approved March 1, 1971

CHAPTER NO. 102

An Act to Amend Section 32-3304.1, R.C.M. 1947, Defining Concrete Mixer Trucks, Mixer Trailers, Semitrailers and Truck Tractors and Establishing Fees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-3304.1, R.C.M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1971 vol. I 569 1971

Additional fees to be paid annually by haulers of ready-mix concrete.

"32-3304.1. **Additional fees — haulers of ready-mix concrete.** There shall be paid and collected annually a fee equal to fifty-five percent (55%) of the fees provided in Schedule I and Schedule II, *as provided in section 32-3301 and 32-3302, R.C.M. 1947,* on *concrete mixer* trucks, *concrete mixer* trailers and *concrete mixer* semitrailers *used exclusively for hauling ready-mix or ready to pour concrete and truck tractors* used exclusively in hauling *concrete mixer semitrailers.*"

Approved March 1, 1971

CHAPTER NO. 103

An Act to Amend Section 87-110 of the Unemployment Compensation Law, R.C.M. 1947, by Providing the Right to Elect Coverage by the Political Subdivisions of This State for its Employees in Hospitals and Institutions of Higher Education in Conformity with Public Law 91-373, Employment Security Amendments of 1970; Fixing an Effective Date; Deleting Language No Longer Applicable.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87-110, R.C.M. 1947, is amended to read as follows:

"87-110. **Period, election and termination of employer's coverage.**

Employing unit.

(a) Any employing unit which is or becomes an employer subject to this act within any calendar year, shall be subject to this act during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section an employing unit shall cease to be an employer subject to this act only as of the first day of January, of any calendar year, only if it files with the commission prior to the last day of February, of such year, a written application for termination of coverage, and the commission finds that the total wages payable for employment by said employer in the preceding calendar year did not exceed five hundred dollars ($500). For the purpose of this subsection, the two (2) or more employing units mentioned in paragraph (2) or (3) of section 87-148 (i) shall be treated as a single employing unit.

Application for termination of coverage.

HeinOnline -- 1971 vol. I 570 1971

(c) An employing unit not otherwise subject to this act, *or any* employing unit for which services *are performed* that do not constitute employment as defined in this act, may file with the commission, a written election that all such services performed by individuals in its employ in one (1) or more distinct establishments or places of business shall be deemed to constitute employment for all purposes of this act for not less than two (2) calendar years. Upon the written approval of such election by the commission, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1, of any calendar year subsequent to such two (2) calendar years only if at least thirty (30) days prior to such first day of January such employing unit has filed with the commission a written notice to that effect.

Filing written election that all services be deemed employment.

Approval.

(d) Any political subdivision of this state may elect to cover under this act service performed by employees in all the hospitals and institutions of higher education as defined in section 87-148 (n) (o), operated by such political subdivision. The election may exclude any services described in section 87-148 (j) (7) (A). Election is to be made by filing with the commission a notice of such election at least thirty (30) days prior to the effective date of such election. Any political subdivision electing coverage under this subsection shall make payments in lieu of contributions with respect to benefits attributable to such employment as provided in section 87-109 (b) (4). An election under this section may be terminated, by filing with the commission written notice not later than thirty (30) days preceding the last day of the calendar year in which the termination is to be effective. Such termination becomes effective as of the first day of the next ensuing calendar year with respect to services performed after that date. The effective date of this subsection shall be January 1, 1972.''

Election to cover employees in hospitals and institutions of higher education.

Procedure.

Payments in lieu of contributions.

Termination procedure.

Effective date—January 1, 1972.

Approved March 1, 1971

CHAPTER NO. 104

An Act to Amend Section 87-104 of the Unemployment Compensation Law, R.C.M. 1947, by Amending the Duration of Benefits to Provide a Program of Extended

HeinOnline -- 1971 vol. I 571 1971

Benefits in Conformity with Public Law 91-373, Employment Security Amendments of 1970; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87-104, R.C.M. 1947, is amended to read as follows:

Maximum amount of benefits.

Computation.

"87-104. **Duration of benefits.** The maximum total amount of benefits payable to any eligible individual during any benefit year shall be:

(a) (1) Thirteen (13) times his weekly benefit amount if he is qualified as an insured worker as defined in section 87-103 (c), and does not qualify under subsection (2) or (3) below.

(2) Twenty (20) times his weekly benefit amount if in addition to meeting the requirements of section 87-103 (c), he has been paid wages of one hundred dollars ($100) or more for insured work in each of two (2) quarters in his base period other than the quarter in which his wages were highest.

(3) Twenty-six (26) times his weekly benefit amount if in addition to meeting the requirement of section 87-103 (c), he has been paid wages of one hundred dollars ($100) or more for insured work in each of three (3) quarters in his base period other than the quarter in which his wages were highest.

(4) Extended benefits if he is qualified as provided under the provisions of this subsection.

Definitions.

(a) Definitions.—As used in this section, unless the context clearly requires otherwise—

"Extended benefit period."

(1) "Extended benefit period" means a period which

(A) begins with the third week after whichever of the following weeks occurs first:

(i) a week for which there is a national "on" indicator, or

(ii) a week for which there is a state "on" idicator; and

(B) ends with either of the following weeks, whichever occurs later:

HeinOnline -- 1971 vol. I 572 1971

(i) the third week after the first week for which there is both a national "off" indicator and a state "off" indicator, or

(ii) the thirteenth consecutive week of such period;

Provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state. Limitation.

(2) There is a "national 'on' indicator" for a week if the U.S. Secretary of Labor determines that for each of the three (3) most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded four and one-half percent (4½%). "National 'on' indicator."

(3) There is a "national 'off' indicator" for a week if the U.S. Secretary of Labor determines that for each of the three (3) most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states was less than four and one-half percent (4½%). "National 'off' indicator."

(4) There is a "state 'on' indicator" for this state for a week if the commission determines, in accordance with the regulations of the U. S. Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (not seasonally adjusted) under this act — "State 'on' indicator."

(A) equaled or exceeded one hundred and twenty percent (120%) of the average of such rates for the corresponding thirteen (13) week period ending in each of the preceding two (2) calendar years, and

(B) equaled or exceeded four percent (4%).

(5) There is a "state 'off' indicator" for this state for a week if the commission determines, in accordance with the regulations of the U. S. Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (not seasonally adjusted) under this act— "State 'off' indicator."

(A) was less than one hundred and twenty percent (120%) of the average of such rates for the corresponding thirteen (13) week period ending in each of the preceding two (2) calendar years, or

HeinOnline -- 1971 vol. I 573 1971

(B) was less than four percent (4%).

"Rate of insured unemployment."

(6) "Rate of insured unemployment", for purposes of paragraphs (4) and (5) of this subsection, means the percentage derived by dividing

(i) the average weekly number of individuals filing claims in this state for weeks of unemployment with respect to the most recent thirteen (13) consecutive-week period, as determined by the commission on the basis of his reports to the U. S. Secretary of Labor, by

(ii) the average monthly employment covered under this act for the first four (4) of the most recent six (6) completed calendar quarters ending before the end of such thirteen (13) week period.

"Regular benefits."

(7) "Regular benefits" means benefits payable to an individual under this act or under any other state law (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits.

"Extended benefits."

(8) "Extended benefits" means benefits (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his eligibility period.

"Eligibility period."

(9) "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

"Exhaustee."

(10) "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(A) has received, prior to such week, all of the regular benefits that were available to him under this act or any other state law (including dependents' allowances and benefits payable to Federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week;

Limitations.

Provided, that, for the purposes of this subparagraph an individual shall be deemed to have received all of the regular benefits that were available to him although (i) as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in

HeinOnline -- 1971 vol. I 574 1971

his benefit year, he may subsequently be determined to be entitled to added regular benefits.

(B) his benefit year having expired prior to such week, has no, or insufficient, wages on the basis of which he could establish a new benefit year that would include such week; and

No other specified benefits.

(C) (i) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other Federal laws as are specified in regulations issued by the U. S. Secretary of Labor; and (ii) has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

"State law."

(11) "State law" means the unemployment insurance law of any state, approved by the U. S. Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

Effect of state law.

(b) Effect of state law provisions relating to regular benefits on claims for, and the payment of, extended benefits.—Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the commission, the provisions of this act which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

Eligibility for extended benefits.

Commission findings.

(c) Eligibility requirements for extended benefits.—An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the commission finds that with respect to such week:

(1) he is an "exhaustee" as defined in subsection (a) (10),

(2) he has satisfied the requirements of this act for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

Computation—weekly amount.

(d) Weekly extended benefit amount.—The weekly extended benefit amount payable to an individual for a week

HeinOnline -- 1971 vol. I 575 1971

of total unemployment in his eligibility period shall be an amount equal to the weekly benefit amount payable to him during his applicable benefit year.

Computation—total amount.

(e) Total extended benefit amount.—The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the least of the following amounts:

(1) fifty percent (50%) of the total amount of regular benefits which were payable to him under this act in his applicable benefit year;

(2) thirteen (13) times his weekly benefit amount which was payable to him under this act for a week of total unemployment in the applicable benefit year.

(f) (1) Beginning and termination of extended benefit period.—Whenever an extended benefit period is to become effective in this state (or in all states) as a result of a state or a national "on" indicator, or an extended benefit period is to be terminated in this state as a result of state and national "off" indicators, the commission shall make an appropriate public announcement.

Duty to make public announcements.

(2) Computations required by the provisions of subsection (a) (6) shall be made by the commission, in accordance with regulations prescribed by the U. S. Secretary of Labor.

Regulations.

Effective January 1, 1972.

(3) The effective date of subsection (a) (4) of this section shall be January 1, 1972.

Reduction.

(b) An individual disqualified by and pursuant to section 87-106, subsections (a), (b) and (c), shall have his maximum weekly duration reduced by the number of weeks equal to the number of weeks of disqualification."

Approved March 1, 1971

CHAPTER NO. 105

An Act Relating to Payments to Silicotics; Amending Sections 71-1003, 71-1004 and 71-1008, R.C.M. 1947, as Amended; Repealing All Acts and Parts of Acts in Conflict Herewith.

HeinOnline -- 1971 vol. I 576 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 71-1003, R.C.M. 1947, is amended to read as follows: Amending clause.

"71-1003. **Eligibility requirements for aid to persons having silicosis, as herein defined.** Payments shall be made under this act to any person who: Payments to persons disabled by silicosis.

(a) Has silicosis, as defined in section 71-1001 of the R.C.M. 1947, which results in his total disability so as to prevent him from engaging in a gainful occupation. The term "gainful occupation" as used herein shall not be construed to mean occasional or intermittent light employment where the ability to do manual labor is not essential, but shall mean any person having an income from any other source exceeding one hundred fifty dollars ($150) per month. "Gainful employment" defined.

(b) Has resided in and been an inhabitant of the state of Montana for ten (10) years, or more, immediately preceding the date of the application. Resident for 10 years.

(c) Has silicosis and is entitled to payments under this act, but who is not at the time of receiving a payment an inmate of a penal institution, or is not a patient or inmate of any institution for the treatment of mental diseases, or is not a patient in a medical institution as a result of having been diagnosed as having a psychosis. If the person to whom payment has been ordered to be paid is an inmate of Montana State tuberculosis sanatorium, then and in that case the payment herein provided for shall be made to his wife and children, if any. Limitations on eligibility—inmates. Payments to family.

(d) Is not receiving, with respect to any month for which he would receive a payment under this act, compensation under the Workmen's Compensation Act of the state of Montana, as provided by chapter 155, Laws of 1959, which will equal the sum of *one hundred fifty-eight dollars and fifty cents ($158.50)* hereunder. If he is receiving payments under the Workmen's Compansation Act, as provided by chapter 155, Laws of 1959, which is less in the aggregate than *one hundred fifty-eight dollars and fifty cents ($158.50),* then he is entitled to a payment under this act of the difference between the amount received under the Workmen's Compensation Act, as provided by chapter 155, Laws of 1959, and *one hundred fifty-eight dollars and fifty cents ($158.50)* per month." Workmen's compensation. $158.50 per month. Payment of difference.

HeinOnline -- 1971 vol. I 577 1971

Amending clause.

Section 2. Section 71-1004, R.C.M. 1947, is amended to read as follows:

Industrial accident board payments $158.50 per month.

"71-1004. **Amounts of payments.** Subject to the provisions of this act and the deductions herein provided, any person who has silicosis, as defined in this chapter, and who has, subject to the regulations and standards of the industrial accident board; been determined by the industrial accident board to be entitled to a payment under this chapter for silicosis, shall be granted a payment by the said industrial accident board of *one hundred fifty-eight dollars and fifty cents ($158.50)* per month subject to such appropriations as may from time to time be made. The legislature shall authorize such additional appropriations as may be necessary to make the increased monthly payments provided herein."

Amending clause.

Section 3. Section 71-1008, R.C.M. 1947, is amended to read as follows:

"71-1008. **Conformity with acts of federal government.**

Authority of board to administer federal grants.

If and when the government of the United States makes grants to states in aid of and allowing payments to persons having silicosis, as herein defined, the industrial accident board of the state of Montana is hereby authorized to administer in the state of Montana such grants-in-aid and payments in addition to grants made by this act. The total payments to any individual under this act shall not exceed

Limitation—$158.50 per month.

one hundred fifty-eight dollars and fifty cents ($158.50) per month exclusive of any grants made by Congress."

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1971

CHAPTER NO. 106

An Act Authorizing the Fish and Game Commission to Regulate the Use, by Archers, of Livestock and Vehicles During Special Archery Seasons.

Be it enacted by the Legislative Assembly of the State of Montana:

Authority to regulate—archery seasons.

Section 1. The fish and game commission shall have the authority to promulgate regulations governing the

HeinOnline -- 1971 vol. I 578 1971

use of livestock and vehicles, by archers, during special archery seasons.

Approved March 1, 1971

CHAPTER NO. 107

An Act to Amend and Add New Sections to the Montana Milk Control Law; Amending Section 27-403, R.C.M. 1947, Relating to Definitions, by Adding Definitions Thereto; Amending Section 27-406, R.C.M. 1947, Relating to Markets, by Removing the Requirement There Be at Least Five (5) Natural Marketing Areas in the State; Amending Section 27-407, Relating to Minimum Prices, to Provide for Flexible Price Formulas and to Specify How Base Plans May Be Established and Under What Circumstances Area-Wide or State-Wide Pooling Arrangements May Be Adopted; Amending Sections 27-408, 27-409, and 27-410, Relating to Licensing, to Include Jobbers and Imported Milk Within the Jurisdiction of the Milk Control Board; Amending Section 27-411, R.C.M. 1947, to Provide that Civil Penalties May Be Assessed by the Milk Control Board in Lieu of Suspension or Revocation of License; Repealing Section 27-427, R.C.M. 1947, Relating to Local Advisory Boards; Adding New Sections to Provide a Time Limitation on Credit Which May Be Extended to Retailers and to Prohibit Financing of Producers and Retailers By Distributors; Providing for Severability if Any Part of This Act is Determined Unconstitutional; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 27-403, R.C.M. 1947, is amended to read as follows: Amending clause.

"27-403 **Definitions.** As used in this act, unless the context otherwise requires, "board" means the state agency created by this act, to be known as the Montana milk control board. Definitions. "Board."

"Person" means any person, firm, corporation or cooperative association. "Person."

HeinOnline -- 1971 vol. I 579 1971

"Producer." "Producer" means any person who produces milk for the consumption within the state, selling same to a distributor.

"Distributor." "Distributor" means any person purchasing milk *from any source, either in bulk or in packages,* and distributing same for consumption within the state. *Said term includes what are commonly known as jobbers and independent contractors.* Said term, however, excludes all persons purchasing milk from a dealer licensed under this act, for resale over the counter at retail, or for consumption on the premises.

"Producer-distributor." "Producer-distributor" means any person both producing and distributing milk for consumption within the state.

"Retailer." *"Retailer" means any person selling milk in bulk or in packages over the counter at retail, or for consumption on the premises, and includes, but is not limited to, retail stores of all types, restaurants, boardinghouses, fraternities, sororities, confectionaries, public and private schools, including colleges and universities, and both public and private institutions and instrumentalities of all types and description.*

"Dealer." "Dealer" means any producer, distributor, producer-distributor, *jobber or independent contractor.*

"Licensee." "Licensee" means any person who holds a license from the board.

"Association." "Association" means any organized group of dealers in a community or marketing area which has been constituted under regulations satisfactory to the board.

"Market." "Market" means any area of the state designated by the board as a natural marketing area.

"Consumer." "Consumer" means any person or any agency, other than a dealer, who purchases milk for consumption or use.

"Producer prices." *"Producer prices" means those prices at which milk owned by a producer is sold in bulk to a distributor.*

"Wholesale prices." *"Wholesale prices" means those prices at which milk owned by a distributor is sold, in bulk or in packages, to a retailer.*

"Jobber prices." *"Jobber prices" means those prices at which milk owned by a distributor is sold, in bulk or in packages, to a jobber or independent contractor.*

HeinOnline -- 1971 vol. I 580 1971

"Retail prices" means those prices at which milk owned by a retailer is sold, in bulk or in packages, over the counter at retail, or for consumption on the premises. "Retail prices."

"Milk" means the lacteal secretion of a dairy animal or animals, including such secretions when raw and when cooled, pasteurized, standardized, or homogenized, recombined, concentrated fresh or otherwise processed and all of which is designated as grade A by a duly constituted health authority, *and also includes such secretions which are in any manner rendered sterile or aseptic, notwithstanding whether they are regulated by any health authority of this or any other state or nation.* "Milk."

Class I milk shall include all bottled or packaged milk, low fat, buttermilk, chocolate milk, whipping cream, commercial cream, half and half, skim milk, fortified skim milk, skim milk flavored drinks, and any other fluid milk not specifically classified in this act, *whether raw, pasteurized, homogenized, sterile or aseptic.* Class I milk.

Class II milk shall include milk used in the manufacture of ice cream and ice cream mix, ice milk, sherbet, eggnog, cultured sour cream, cottage cheese, condensed milk, and powdered skim for human consumption. Class II milk.

Class III milk shall include milk used in the manufacture of butter, cheddar cheese, process cheese, livestock feed, powdered skim other than for human consumption, and skim milk dumped. Class III milk.

The board shall have power and authority to assign milk products hereafter developed to the class which in its discretion it determines to be proper."

Section 2. Section 27-406, R.C.M. 1947, is amended to read as follows: Amending clause.

"27-406. **Markets.** Pursuant to the declaration of policy relating to milk set forth in section 27-401, the milk control board is vested with the duty and authority to designate natural marketing areas which shall together embrace all the geographical area of the state and to prescribe and enforce minimum producer, wholesale, and retail prices in such areas in the manner set forth in this act. Authority of board to designate marketing areas. Enforce.

(a) Natural marketing areas shall be established forthwith throughout the state by the board; provided

HeinOnline -- 1971 vol. I 581 1971

Notice. Hearings. that before any proposed natural marketing area is established the board, after notice of at least thirty (30) days, shall hold a hearing or hearings, at a place or places within the proposed area, at which producers and distributors doing business within said proposed natural marketing area, who are licensed by the Montana livestock sanitary board, and the consuming public may present evidence and testify; and in the event the hearing or hearings make it evident to a majority of the board that the establishment of such proposed natural marketing area is in the public interest, the board shall make findings and conclusions and proceed to establish such natural marketing area.

Findings and conclusions.

Adjustment of boundaries. (b) The board shall have the power, from time to time and at its discretion, to adjust and alter the boundaries of natural marketing areas after they have been established, if after a hearing upon notice of at least thirty (30) days to all interested parties it finds and orders such adjustment to be in the public interest.

Hearing. Notice.

Prior areas and rules remain in effect. (c) All previously established marketing areas and all price schedules, rules and regulations issued and promulgated by *the* milk control board in this state at the time of passage of this act *which* are in force and effect, are hereby declared to be and remain in force and effect until altered or rescinded in the manner provided by this act.

Duty of board to maintain information. (d) The board shall at all times maintain current information on quantities of surplus grade A milk available in the various marketing areas throughout the state, and such information shall be available to all interested parties on request."

Amending clause. Section 3. Section 27-407, R.C.M. 1947, is amended to read as follows:

Authority of board to fix minimum prices. "27-407. *Establishment of minimum prices. The board is hereby authorized and directed to fix minimum producer, wholesale, jobber, and retail prices for class I milk, and minimum producer prices only for class II and class III milk in all areas of the state.*

Use of flexible formulas. *The board shall establish such prices by means of flexible formulas which it shall adopt by official order and which shall be devised so that they bring about such automatic changes in all minimum prices as are justified on the*

HeinOnline -- 1971 vol. I 582 1971

basis of changes in production costs and supply, processing and distribution costs, and retailing costs.

Prior hearings.

Prior to *promulgation of such formulas* the board shall conduct a public hearing and admit evidence under oath relative to the matters of its inquiry, at which hearing the consuming public shall be entitled to offer evidence and be heard the same as persons engaged in the milk industry. The board shall by means of such hearing or from facts within its own knowledge, investigate and determine what are reasonable costs and charges for producing, hauling, handling, processing, and/or other services performed in respect to milk and what prices for milk in the several localities and markets of the state, and under varying conditions, will best protect the milk industry in the state and insure a sufficient quantity of pure and wholesome milk to adults and minors in the state, and be most in the public interest.

Determinations by board.

Considerations by board.

The board shall take into consideration the balance between production and consumption of milk, the costs of production and distribution, and prices in adjacent and neighboring areas and states, so that minimum prices which are fair and equitable to producers, distributors, *jobbers, retailers,* and consumers may result.

Mandatory notice 30 days prior to hearing.

The board shall, at least *thirty (30)* days prior to the date set for any public hearing on *establishment or revision of milk pricing formulas,* cause notice to be given to the consuming public and the milk industry of the specific factors which shall be taken into consideration in *establishing the formulas and in particular* in determining costs of production and distribution and of the actual dollars and cents costs of production and distribution which preliminary studies and investigations of auditors or accountants in its employment indicate will or should be shown at the hearing, so that all interested parties will have opportunity to be heard and to question or rebut such considerations as a matter of record.

Specific factors.

Such specific factors may include, but shall not be limited to, the following items:

Supply and demand.

(1) Current and prospective supplies of milk in relation to current and prospective demands for such milk for all purposes;

Consumer purchasing power.

(2) The ability and willingness of consumers to purchase, which shall include among other things, per capita

HeinOnline -- 1971 vol. I 583 1971

disposable income statistics, consumer price indices, and wholesale price indices;

Production cost factors.

(3) The cost factors in producing milk which shall include among other things the prices paid by farmers generally (as used in parity calculations of the United States Department of Agriculture), prices paid by farmers for dairy feed in particular and farm wage rates in this state;

Alternative opportunities.

(4) The alternative opportunities, both farm and nonfarm, open to milk producers, which shall include among other things, prices received by farmers for all products other than milk, prices received by farmers for beef cattle, and the percentage of unemployment in the state and nation as determined by appropriate state and federal agencies;

Prices.

(5) The prices of butter-nonfat dry milk, and cheese;

Distribution cost factors.

(6) The cost factors in distributing milk, which shall include among other things the prices paid by distributors for equipment of all types required to process and market milk and prevailing wage rates in this state;

Jobbing cost factors.

(7) The cost factors in jobbing milk, which shall include among other things raw product and ingredient costs, carton or other packaging cost, processing cost and that part of general administrative costs of the supplying distributor which may properly be allocated to the handling of milk to the point at which such milk is at the supplying distributor's dock, equipment of all types required to market milk and prevailing wage rates in the state;

Freight charges.

(8) The need, if any, for freight or transportation charges to be deducted by distributors from producer prices for bulk milk;

Reasonable return.

(9) A reasonable return on necessary investment to all ordinarily efficient and economical milk dealers.

Board proposals.

If the board at any time proposes to base all or any part of any official order *establishing or revising any milk pricing formulas* upon facts within its own knowledge, as distinguished from evidence which may be presented to it at a public hearing by the consuming public or the milk industry, the board shall, at least *thirty (30)* days prior to the date set for any public hearing on *establishment or revision of milk pricing formulas,* cause notice to be given to the consuming public and the milk industry of the spec-

30 days prior to hearing.

Notice.

HeinOnline -- 1971 vol. I 584 1971

ific facts within its own knowledge which it will consider, so that all interested parties will have opportunity to be heard and to question or rebut such facts as a matter of record.

The board, after consideration of the evidence produced at such hearing, shall make written findings and conclusions and shall fix by official order:

Findings and conclusions—officially ordered formulas.

(a) The formula whereby minimum producer prices for milk in classes I, II, and III shall be computed.

(b) The formula whereby minimum wholesale prices for milk in class I shall be computed.

(c) The formula whereby minimum jobber prices for milk in class I shall be computed.

(d) The formula whereby minimum retail prices for milk in class I shall be computed.

This section shall not be construed as requiring the board to promulgate any specific number of formulas, but shall be construed liberally so that the board may adopt any reasonable method of expression to accomplish the objective set forth in (a), (b), (c), and (d) above. If the evidence presented to the board at any public hearing for the establishment or revision of milk pricing formulas is found by the board to require the establishment of separate and varying wholesale prices for any particular uses, the board shall designate the reasons therefor and establish such separate formulas.

Liberal construction.

Separate formulas

Each order *establishing or revising any milk pricing formulas* shall classify milk by forms, classes, grades or uses as the board may deem advisable and shall specify the minimum prices therefor.

Order requirements.

The milk produced in one natural marketing area and sold in another natural marketing area shall be paid for by a distributor or dealer in accordance with the pricing order of the area where produced at the price therein specified of the class or use in which it is ultimately used or sold.

Milk produced in one area and sold in another.

No allowance for freight, other than freight for transportation of milk from the farm to plant, shall be charged to a producer by a distributor or dealer unless it is found and ordered by the board, after notice and hearing in the manner hereinbefore specified, that such an additional

Allowances for freight.

HeinOnline -- 1971 vol. I 585 1971

freight allowance is necessary to permit the movement of milk in the public interest.

Uniform basis.

All milk purchased within a natural marketing area by a distributor shall be purchased on a uniform basis. The basis to be used shall be established by the board after the producers and the distributors of the area have been consulted.

Authority to amend orders.

The board may, upon its own motion, or upon application in writing from any market, or from any party at interest, alter, revise or amend any official order theretofore made by the board provided that before making, revising, or amending any order *establishing or revising milk pricing formulas,* the board shall hold a public hearing on such matter in the same manner provided herein for the original *establishment of milk pricing formulas;* provided, further, the board may in its discretion, when it determines the need exists, notice and hold statewide public hearings affecting *establishment or revision of milk pricing formulas* in all market areas of the state.

Hearings.

Notice—statewide hearings.

Petition.

Hearing.

Base or quota plan.

Upon petition of a distributor or a majority of his producers, the board shall hold a hearing to receive and consider evidence regarding the advisability and need for a base or quota plan as a method of payment by that distributor of producer prices; and if the board finds that the evidence adduced at such hearing warrants the establishment of a base or quota plan, the board shall proceed by official order to establish the same.

Petition.

Hearing.

Pooling arrangements.

Findings.

Order.

Approval by referendum.

Upon petition by any producer, producer-distributor or distributor in any marketing area, the board shall hold a hearing to receive and consider evidence regarding the advisability and need for an area-wide or state-wide pooling arrangement as a method of payment of producer prices, provided that at such hearing the board shall among other things specifically receive and consider evidence concerning production and marketing practices which have historically prevailed in the area concerned or state-wide, as the case may be; and if the board finds that the evidence adduced at such hearing warrants the establishment of such an area-wide or state-wide pooling arrangement, the board shall proceed by official order to establish the same, but such official order shall be of no force or effect until it is approved in a referendum conducted by the board among affected producers, producer-distributors, and distributors.

HeinOnline -- 1971 vol. I 586 1971

The requirements hereinabove set forth concerning notices of hearings for the establishment of milk pricing formulas shall apply to any hearings regarding base or quota plans or area-wide or state-wide pooling arrangements, or abandonment thereof.''

Requirements for notices of hearings.

Section 4. Section 27-408, R.C.M. 1947, is amended to read as follows:

Amending clause.

"27-408. **Licenses to producers, producer-distributors, distributors** *and jobbers.* In any market, where the provisions of this act apply, it shall be unlawful for any producer, producer-distributor, distributor *or jobber* to produce, transport, process, store, handle, distribute, buy or sell milk unless such dealer be duly licensed as provided by this act. It shall be unlawful for any such person to buy, sell, handle, process, or distribute milk which he knows or has reason to believe has been previously dealt with or handled in violation of any provision of this act. The board may decline to grant a license, or may suspend or revoke a license already granted, upon due cause and after hearings.''

Licenses required—violations.

Penalties.

Section 5. Section 27-409, R.C.M. 1947, is amended to read as follows:

Amending clause.

"27-409. **Licenses — disposition of income.** No producer, producer-distributor, distributor *or jobber* shall engage in the business of producing or selling milk subject to this act in this state without first having obtained a license from the Montana livestock sanitary board *or, in the case of milk entering this state from another state or foreign nation, without complying with the requirements of the Montana Food, Drug and Cosmetic Act,* and without being licensed under this act by the milk control board. The annual fee for such license from the milk control board shall be two dollars ($2), shall be due and payable on or before the first day of July, and shall be deposited by said board to the credit of the general fund.

License from Montana livestock sanitary board.

Montana food, drug and cosmetic act. Annual fee $2.00.

July 1.

Deposit.

In addition to such annual license fee, the board shall, in each year, on or before the first day of April, for the purpose of securing funds to administer and enforce this act, levy an assessment upon producers, producer-distributors, and distributors as follows:

April 1—board shall levy assessments.

(a) A fee of not more than five cents (5¢) per hundred weight on the total volume of all milk subject to this act produced and sold by a producer-distributor.

HeinOnline -- 1971 vol. I 587 1971

(b) A fee of not more than two and one-half cents (2½¢) per hundred weight on the total volume of all milk subject to this act sold by a producer.

(c) A fee of not more than two and one-half cents (2½¢) per hundred weight on the total volume of all milk subject to this act sold by a distributor, excepting that which is sold to another distributor.

Quarterly payments.

Said assessment upon producer-distributors, producers, and distributors shall be paid quarterly on or before the fifteenth day of July, October, January and April of each year, and the amount of such assessment shall be computed by applying the fee designated by the board to the volume of milk sold in the calendar quarter immediately preceding.

Computation.

Violation.

Penalty.

Failure of any producer, producer-distributor, or distributor to pay said assessment when due shall constitute violation of this act and his license under this act shall thereupon automatically terminate and be null and void and of no effect. Reinstatement of a license so terminated shall be effected by payment of a delinquency fee equal to thirty percent (30%) of the assessment which was due.

Delinquency fee.

Deposit of monies.

Expenditures.

All assessments hereinbefore required to be paid shall be deposited by the milk control board in the earmarked revenue fund; and all costs of administering this act, including the salaries of employees and assistants, per diem and expenses of board members, and all other disbursements necessary to carry out the purpose of this act, shall be paid out of milk control board moneys in such fund.

Rates of assessment.

The rates of assessment above provided are maximum rates, and the board may, if it finds the costs of administering and enforcing this act can be derived from lower rates, fix the rates at a less amount on or before the first day of April in any year."

Amending clause.

Section 6. Section 27-410, R.C.M. 1947, is amended to read as follows:

Application for license—requirements.

"27-410. **Application for licenses.** An applicant for license to operate as a producer, producer-distributor, distributor, *or jobber* shall file a signed application upon a blank prepared under authority of the board, and an applicant shall state such facts concerning his circumstances and the nature of the business to be conducted as in the opinion of the board are necessary for the administration of this act. Such application shall certify the applicant to

HeinOnline -- 1971 vol. I 588 1971

be the holder of all licenses required by the Montana livestock sanitary board for the conduct of his business *or, in the case of milk entering this state from another state or foreign nation, compliance with the requirements of the Montana Food, Drug and Cosmetic Act,* and such application shall be accompanied by the license fee required to be paid."

Section 7. Section 27-411, R.C.M. 1947, is amended to read as follows: Amending clause.

"27-411. **Declining, suspending and revoking licenses—***penalties in lieu of suspension or revocation. (1)* The board may decline to grant a license or may suspend or revoke a license already granted for due cause upon due notice and after hearing. The violation of any provisions of this act or of any lawful order or regulation of the board, the failure or refusal to make required statements or reports, and aggravated delinquency in the payment of license *or assessment* fees, or any of them, shall be deemed causes for which the board may, at its discretion, suspend or revoke a license, provided that no license shall be fully revoked except upon the approval of a majority of all members of the board. Authority of board to deal with violations after notice and hearing.

(2) In lieu of a suspension or revocation of a license the board may assess a civil penalty not to exceed five hundred dollars ($500) per day for each daily failure to comply with or each daily violation of the provisions of this act or of any lawful order or regulation of the board; and if the person against whom such civil penalty is assessed fails or refuses to pay such civil penalty forthwith, the board is empowered and directed to collect such civil penalty by a civil proceeding in the district court of the first judicial district. Such civil penalties shall be construed as civil and not criminal in nature. Any moneys received by the board as a result of collection of civil penalties shall be paid into the state general fund." Board may assess penalties. Maximum $500 per day. Deposit of monies.

Section 8. **Limitation on extension of credit.** No sale or delivery shall be made by any producer-distributor, distributor or jobber to any retailer, except for cash or payment within fifteen (15) days after regular billings, and all producer-distributors, distributors and jobbers shall bill retailers at least monthly. In no event shall any producer-distributor, distributor, or jobber extend more than fifteen (15) days' credit after billing to a retailer, Limitations on extensions of credit to retailers.

HeinOnline -- 1971 vol. I 589 1971

nor shall any retailer accept or receive delivery of such milk without agreement to pay in cash therefor within fifteen (15) days after regular billing therefor. A correctly dated check which is honored upon presentment shall be considered as cash within the meaning of this act. Any extension or acceptance of credit in violation hereof shall be regarded and construed as rendering or receiving financial assistance, and the licenses of producer-distributors, distributors, or jobbers involved in violation hereof shall be suspended or revoked as determined by the board in its discretion.

Violations.

Prohibitions on financial arrangements.

Section 9. **Financing prohibitions.** No producer, producer-distributor, distributor, or jobber licensed under this act shall hereafter advance or loan money or credit to, or furnish money or credit for, or refinance or cosign or guarantee promissory notes, security agreements, conditional sales contracts or other commercial paper for or on behalf of any retailer, and no producer, producer-distributor, distributor, or jobber shall be financially interested either directly or indirectly, in the conduct or operation of the business of a retailer; and no producer-distributor, distributor, or jobber licensed under this act shall hereafter advance or loan money or credit to, or furnish money or credit for, or re-finance or co-sign or guarantee promissory notes, security agreements, conditional sales contracts or other commercial paper for or on behalf of any producer, and no producer-distributor, distributor, or jobber shall be financially interested, either directly or indirectly, in the conduct or operation of the business of a producer; provided, however this section shall not be construed so as to prohibit any producer from belonging to, participating in, or patronizing a cooperative corporation or a producer, producer-distributor, distributor, or jobber from operating his own wholly-owned dairy products or other retail store or home-delivery retail routes.

Exceptions.

Advance payment or assignment.

This section is not to be construed to prohibit a producer from requesting and a distributor from granting an advance payment for milk prior to the regular date of payment therefor or to limit in any way the right of a producer to assign part or all of moneys which are or may become due to him from a distributor.

Repealing clause.

Section 10. Section 27-427, R.C.M. 1947, is repealed.

HeinOnline -- 1971 vol. I 590 1971

Section 11. If any section, subdivision, sentence or word of this act shall be determined by a court of competent jurisdiction to be unconstitutional or inoperative, such determination shall not affect the remaining portions of this act. Severability clause.

Section 12. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 1, 1971

CHAPTER NO. 108

An Act to Provide for Holiday Observance by Public Employees When a Holiday Falls on the Employee's Day Off.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Observance of holiday falling on an employee's day off.** Any employee of the state of Montana, or any county or city thereof, who is scheduled for a day off on a day which is observed as a legal holiday, except Sundays, shall be entitled to receive a day off either on the day preceding or the day following the holiday, whichever allows a day off in addition to the employee's regularly scheduled days off. When day off falls on holiday, public employee entitled to another day.

Approved March 1, 1971.

CHAPTER NO. 109

An Act Amending Section 75-6319, R.C.M. 1947, to Increase From Four Hundred Dollars ($400) to Five Hundred Dollars ($500) the Amount Paid Per Pupil Attending High School in Twin Bridges from the Montana Children's Center by the Superintendent of Public Instruction.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-6319, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-6319. **High school tuition for public institution at Twin Bridges.** Whenever high school pupils are inmates of the Montana children's center at Twin Bridges High school tuition—Montana children's center.

HeinOnline -- 1971 vol. I 591 1971

and attend high school in Twin Bridges, the superintendent of public instruction shall pay *five* hundred dollars *($500)* per pupil for each pupil who has attended forty (40) or more days of school in such district. The annual payment shall be made from the state equalization aid account to the county treasurer for the credit of the Twin Bridges high school general fund immediately after the end of the school fiscal year of attendance and after the verification of the claim submitted by Twin Bridges high school district. An approved tuition agreement shall not be required under this section."

$500 per pupil.

Source of funds.

Approved March 1, 1971.

CHAPTER NO. 110

An Act to Provide for Maintenance of State Fire Marshal's Office; and Amending Section 82-1231, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-1231, R.C.M. 1947, is amended to read as follows:

"82-1231. **Tax on fire insurance premiums for maintenance of state fire marshal's office.** Each insurer authorized to effect insurance risks enumerated in subsection two of section 11-1919, doing business in this state shall pay to the state auditor and commissioner of insurance ex officio, during the month of February or March in each year, in addition to the taxes on premiums required by law to be paid by it, a tax of *three-fourths* of one percent *(3/4* of 1%) on the fire portion of the direct premiums on such risks received during the calendar year next preceding, after deducting cancellations and return premiums."

Insurer shall pay to state auditor.

Additional tax—¾ of 1% of fire premiums.

Approved March 1, 1971.

CHAPTER NO. 111

An Act to Establish a Division of Mental Retardation Within the Department of Institutions; Providing that the Boulder River School and Hospital is Within the

HeinOnline -- 1971 vol. I 592 1971

Division of Mental Retardation; Providing that the Eastmont Training Center is Within the Division of Mental Retardation; Providing that the Superintendent of Boulder River School and Hospital is the Supervisor of the Division of Mental Retardation; Prescribing the Location and Function of the Boulder River School and Hospital; Prescribing the Function of the Superintendent of the Boulder River School and Hospital; Defining Mental Retardation; Setting Forth the Functions of the Division of Mental Retardation and Providing for Effective Date. Repealing Sections 80-2301 and 80-2302, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Division established—mental retardation.

Section 1. It is hereby established a division of mental retardation within the department of institutions.

Institutions.

Section 2. The Boulder River School and Hospital, located at Boulder, Montana, and the Eastmont Training Center, located at Glendive, Montana, are in the division of mental retardation of the department of institutions.

Supervisor—Boulder River School.

Section 3. The superintendent of the Boulder River School and Hospital is responsible for the immediate management and control of the school and in addition, is the supervisor of the division of mental retardation.

Primary function.

Section 4. The primary function of the Boulder River School and Hospital and the Eastmont Training Center is the care, treatment, training and education of mentally retarded persons. The "care, treatment, training and education of mentally retarded persons", shall be deemed to include necessary medical treatment.

Medical treatment included.

"Mental retardation" defined.

Section 5. As used in this act "mental retardation" is a state of subnormal development of the human organism which results in the mental incapability of the person affected to adapt himself to the daily demands of a social environment.

Functions of division.

Section 6. The functions of the division of mental retardation of the department of institutions is as follows:

(1) Take cognizance of persons affected by mental retardation in the state of Montana.

(2) Initiate preventive mental retardation activities in the state of Montana.

HeinOnline -- 1971 vol. I 593 1971

(3) Make scientific and medical investigations relative to the incidence, cause, prevention, care of mental retardation.

(4) Collect and disseminate information relating to mental retardation.

(5) Prepare plans for the development of mental retardation services in the state.

(6) Establish and conduct clinics in cities and towns in the state for the diagnosis, evaluation and treatment of mental retardation.

(7) Receive from federal and other agencies, private and public, grants of money for the development of mental retardation services within the state and to use such monies for the purposes for which they were granted.

Repealing clause.

Section 7. Sections 80-2301 and 80-2302, R.C.M. 1947, are hereby repealed.

Effective immediately.

Section 8. This bill will be effective upon passage and approval.

Approved March 1, 1971.

CHAPTER NO. 112

An Act Relating to the Interstate Compact on Mental Health Authorizing the State of Montana to Enter into a Compact with any of the United States, its Territories and Possessions, for the Treatment of Mentally Ill and Mentally Deficient; Providing for a "Compact Administrator;" and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Interstate compact on mental health.

Section 1. The interstate compact on mental health as contained herein is hereby enacted into law and entered into by this state with all other jurisdiction legally joining therein in the form substantially as follows:

Agreement.

The contracting states solemnly agree, that:

Findings.

Article I. The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to

HeinOnline -- 1971 vol. I 594 1971

the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Need.

Purposes of compact.

Article II. As used in this compact:

Definitions.

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

"Sending state."

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

"Receiving state."

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

"Institution."

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

"Patient."

(e) "Aftercare" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

"Aftercare."

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

"Mental illness."

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such

"Mental deficiency."

HeinOnline -- 1971 vol. I 595 1971

extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

"State." (h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Person in state needing treatment. Article III. (a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or treatment in an institution in that state irrespective of his residence, settlement, or citizenship qualifications.

Transfer to another state. (b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever

Determination. there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof.

Factors defined. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this

Advance notice required. article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the

Opportunity to examine. patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and

Agreement to accept. unless the receiving state shall agree to accept the patient.

System of priorities. (d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

Review. (e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient

HeinOnline -- 1971 vol. I 596 1971

may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Aftercare or supervision.

Article IV. (a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive aftercare or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that aftercare in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such aftercare in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

Request for investigation sent to receiving state.

Information and records.

Findings.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive aftercare or supervision in the receiving state.

Aftercare in receiving state.

Standards for aftercare.

(c) In supervising, treating, or caring for a patient on aftercare pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Escape.

Article V. Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escapee in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be

Notice.

Apprehension.

HeinOnline -- 1971 vol. I 597 1971

Detention.

detained in the state where found pending disposition in accordance with law.

Authority to transport patient.

Article VI. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

One institution.

Article VII. (a) No person shall be deemed a patient of more than one (1) institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

Payment of costs.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two (2) or more party states may, by making a specific arrangement for that purpose, arrange for a different allocation of costs as among themselves.

Compact does not affect internal relations.

(c) No provision of this compact shall be construed to altar or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

Assertion of rights.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

Reciprocal agreements not invalidated.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

Guardian's duties not affected.

Article VIII. (a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for

HeinOnline -- 1971 vol. I 598 1971

whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts, as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

Guardian in receiving state.

Guardian may be relieved.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

"Guardian" defined.

Article IX. (a) No provisions of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

Not applicable to criminals.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

No patient shall be detained in jail.

Article X. (a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact

Appointment—"Compact administrator."

HeinOnline -- 1971 vol. I 599 1971

Duties.

in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

Rules and regulations.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Supplementary agreements for joint facilities.

Article XI. The duly constituted administrative authorities of any two (2) or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Effective upon enactment.

Article XII. This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

Withdrawal enactment.

One year after notice.

Status of patients.

Article XIII. (a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one (1) year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

Other withdrawals.

(b) Withdrawal from any agreement permitted by Article VII (b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

HeinOnline -- 1971 vol. I 600 1971

Liberal construction.

Article XIV. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Severability clause.

Director of department of institutions is the compact administrator.

The director of the department of institutions, hereafter called "the director," shall be the compact administrator and shall have the power to make any rules and regulations necessary for the administration of this article. The director shall cooperate with all departments, agencies, and officers of the state and any political subdivision thereof to facilitate the proper administration of the interstate compact on mental health or of any supplementary agreement or agreements entered into by this state thereunder.

Duties.

Supplementary agreements.

The director may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact.

Annual budget.

The department of institutions in its annual budget shall include such amounts necessary to discharge the financial obligations incurred by it to carry out the purposes of the interstate compact on mental health, and the general assembly shall appropriate such sums necessary therefor.

Duty to consult family.

The compact administrator is hereby directed to consult with the immediate family of any proposed transferee and, in the case of a proposed transferee from an institution in this state to an institution in another party state, to make no transfer out of the state without approval of the district or probate court. Before granting such approval the court shall hold such hearings as it deems appropriate. In addition, the court shall designate some appropriate person to deliver written notice of the proposed transferee's right to a hearing to the proposed transferee and his guardian ad litem. The person serving such notices shall make a written return to the court that

Court approval.

Hearings.

Notice.

Return of service.

HeinOnline -- 1971 vol. I 601 1971

such has been done. At the conclusion of such hearing, if any, the court may approve the proposed transfer, order the release of the proposed transferee, or enter any other suitable order.

Court order.

Duly authenticated copies of the article shall upon its approval, be transmitted by the secretary of state to the governor of each state, the attorney general, and the secretary of state of the United States, and the Council of State Governments.

Transmittal of copies.

Section 2. This bill will be effective upon passage and approval.

Effective immediately.

Approved March 1, 1971.

CHAPTER NO. 113

An Act to Amend Section 77-157, R.C.M. 1947, to Provide for Leave of Absence for State Employees Attending Training Camp or Similar Training Program.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 77-157, R.C.M. 1947, is amended to read as follows:

"77-157. **Leave of absence of state employees attending training camp or similar training program.** That any person who is a member of the organized national guard of the state of Montana or who is a member of the organized or unorganized reserve corps or forces of the United States army, navy, marine corps, or coast guard, which now exist or may be created at any time in the future by proper authority, and who is an appointee of or employee of the state of Montana, or any of its departments, or any county or city within the state, *and who has been such appointee or employee for a period of six (6) months,* shall be given leave of absence with pay *for a period of time not to exceed fifteen (15) working days in any calendar year* for attending regular encampments, training cruises, and similar training programs authorized by the secretary of *defense* of the United States for the Montana national guard or by the proper legal authority in charge of the reserve corps or forces of the United States army, navy, marine corps, or coast guard while in

Persons attending military training.

Employed 6 months.

Leave of absence with pay for 15 working days per year in addition to annual vacation.

HeinOnline -- 1971 vol. I 602 1971

attendance at such annual encampment, training cruise, and similar training program, or without the time being charged against him on his annual vacation.''

Approved March 1, 1971

CHAPTER NO. 114

An Act Repealing Section 94-35-138, R.C.M. 1947, Which Makes it a Misdemeanor to Encourage or Permit a Minor Under Sixteen (16) Years of Age to be in a Public Dance Hall.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. Section 94-35-138, R.C.M. 1947, is hereby repealed.

Approved March 1, 1971

CHAPTER NO. 115

An Act to Provide for the Creation of a Game Preserve in the Area of the Gates of the Mountains, Lewis and Clark County, Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Gates of the Mountains game preserve—boundary descriptions.

Section 1. There is a new section in Title 26, chapter 11, R.C.M. 1947, which reads as follows: Gates of the Mountain Game Preserve. Beginning in Section 2, Township 12 North, Range 3 West, at the southeast corner of upper Holter Lake and proceeding westerly along the northern shoreline of said upper Holter Lake in the Gates of the Mountains area located in Lewis and Clark County, Montana, and then northerly along Stoney Point Beacon Road, then northerly along the power line to said beacon, then along the bulldozer road to the point of the ridge in Section 23, Township 13 North, Range 3 West, then northerly to the Missouri River, then easterly across said river and lake to the Forest Service Boundary to the Wilderness Boundary, then south following the Wilderness Boundary to the southeast corner of Section 1, Township 12 North, Range 3 West, then west back to the upper Holter Lake to the point of beginning, intend-

HeinOnline -- 1971 vol. I 603 1971

ing hereby to include in said game preserve all that territory adjacent to the Gates of the Mountains area, shall be called and known as the Gates of the Mountains Game Preserve.

Violations.

It shall be unlawful for any person to shoot, kill, capture or destroy or in any way injure any bird or fur-bearing animal in said area or to interfere with their eggs or nests or to shoot at, wound or kill any bird or fur-bearing animal within said preserve. Said area shall be closed to all hunting at all times.

Closed to hunting.

Approved March 1, 1971

CHAPTER NO. 116

An Act Relating to the Public Employees' Retirement System Changing the Formula for Calculating Retirement Benefits; Increasing the Employer Contribution to the Retirement Fund; Increasing Retirement Allowances to Members of the System Retired Prior to July 1, 1971; Requiring a Minimum of Two (2) Years of Creditable Service after Reinstatement from Retirement to be Eligible for Newly Enacted Retirement Benefits; Amending Sections 68-801, 68-901, 68-1307, R.C.M. 1947, and Adding New Section 68-902, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 68-801, R.C.M. 1947, is amended to read as follows:

Retirement at age 55 with 10 years or more of service.

"68-801. **Voluntary service retirement.** (a) Retirement of a member for service shall be made by the board of administration upon his attaining the age of fifty-five (55) years or more and upon his completion of ten (10) or more years of public service credited under this act and the filing of his written application to the board, subject to the provisions of section 68-901; and provided, however, that the service retirement allowance shall commence on the day following the member's last day of state service or on the first day of the month in which his application is filed with the board of administration, whichever is later.

Application.

Effective day of allowance.

HeinOnline -- 1971 vol. I 604 1971

(b) Notwithstanding any other provision of this act, any person who has been retired for service (as distinguished from disability) under the provisions of this act may be employed in state service in accordance with the laws governing such service in the same manner as a person who has not been so retired. Employment in state service.

(c) Any person so employed shall be considered as reinstated from retirement and his retirement allowance shall be cancelled forthwith. Upon subsequent retirement he shall be entitled to receive a benefit, as provided in section 68-901, which shall be based upon his creditable service accumulated at the time of his previous retirement plus any creditable service accumulated subsequent to his re-employment. *Unless otherwise expressly provided he shall not receive retirement benefits enacted subsequent to the date he initially retires unless he shall have accrued at least two (2) years of creditable service subsequent to his reinstatement from retirement.*" Reinstatement from retirement. Limitation on benefits—subsequent retirement. Two years service.

Section 2. Section 68-901, R.C.M. 1947, is amended to read as follows: Amending clause.

"68-901. **Service retirement allowance.** A member who has reached his sixtieth birthday upon retirement from service is entitled to receive a service retirement allowance which shall consist of either an allowance as provided in subsections (a) through (f) of this section, or an allowance as provided in subsection (g) of this section at the option of the member: Retirement—age 60. Allowance. Option.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement. Annuity.

(b) A pension, purchased by the contributions of the state, or the contracting city, equal to one (1) that portion of the annuity purchased by the accumulated normal contributions of the member, or (2) one quarter (¼) of his average final compensation provided his total state service is at least *thirty-two and one half (32½)* years otherwise, a pension which shall be *one one-hundred thirtieth (1/130)* of his average final compensation multiplied by the number of years of state service; whichever is greater. Pension.

(c) An additional pension, purchased by the contributions of the state, for members other than persons who Additional pension.

HeinOnline -- 1971 vol. I 605 1971

are employees of the university at the time of becoming members, and members employed by a contracting city. Such additional pension shall be equal to *one sixty-fifth (1/65)* of the member's final compensation, multiplied by the number of years of prior service except that if a member retires before attaining the age of sixty (60) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age sixty (60) will purchase at the actual age of retirement.

Retirement before age 60—reduced additional pension.

(d) If a member retires before attaining the age of sixty (60) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this section as deferred to age sixty (60) will purchase at the actual age of retirement.

Additional pension—university employees.

(e) An additional pension, purchased by contributions of the state, for members who are also employees of the university at the time of becoming members, said additional pension to accrue from the date of retirement under the system regardless of whether said retirement was prior to the effective date hereof. Such additional pension shall be equal to *one sixty-fifth (1/65)* of the average annual compensation earnable by him during the three (3) years preceding retirement, multiplied by the number of years of prior service credited to him, except that if a member retires before attaining the age of sixty (60) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age sixty (60), will purchase at the actual age of retirement. If, however, a member who is employed by the university at the time of becoming a member, shall not have rendered state service before January 1, 1946, his additional pension shall be based upon *one sixty-fifth (1/65)* of the average annual compensation earnable by him during the first year of the state service, or such portion thereof as he may have served before January 1, 1946, multiplied by the number of years of prior service credited to him.

Retirement before age 60—reduced additional pension.

Additional pension—city employees.

(f) An additional pension on account of prior service, purchased by the contributions of the contracting city for members who are also employees of a contracting city as may be provided for under the contract between the board and the contracting city.

HeinOnline -- 1971 vol. I 606 1971

Retirement at 60—service retirement allowance.

(g) A member who reaches his sixtieth birthday upon retirement from service is entitled to receive a service retirement allowance which shall consist of a retirement allowance which shall be equal, at age sixty (60) to *one sixty-fifth (1/65)* of his final compensation, multiplied by the number of years of service. A member retiring prior to the age of sixty (60) shall be entitled to a retirement allowance which shall be the actuarial equivalent of that portion of his retirement allowance based on his credited service prior to the date of actual retirement and which would have been payable to him at age sixty (60).

Retirement before 60—actuarial portion.

MINIMUM GUARANTEE

Retirement at age 70.

(h) When a member enters the retirement system with, or without, credit for prior service, and is otherwise eligible for retirement after attaining the age of seventy (70) years, if his final compensation was such that one-half (½) thereof is in excess of the total of his retirement allowance, an additional pension for prior service sufficient to cause his retirement allowance to amount to one-half (½) of such final compensation shall be paid him on account of prior service, but in no event shall a greater additional pension be paid than will cause the total retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, to amount to the sum of four hundred eighty dollars ($480) per year. The provisions of this section shall not apply to the members who are employees of a contracting city unless provided for by contract between the board and the contracting city, but if a member be employed by more than one (1) of such cities, his aggregate retirement allowances shall be taken into account in applying said provisions, and said application shall be made as if the member was employed by one or more offices or departments of the state.

Additional pension.

$480 per year.

Exceptions.

DISABILITY RETIREMENT

Disability retirement prior to age 70.

(i) Any member who has not reached seventy (70) years of age shall be retired for disability if incapacitated for the performance of duty as the result of any injury or disease arising out of and in the course of his employment. Incapacity for performance of duty shall be determined by the board of administration of the public employees' retirement system, and said board of administration shall determine whether such incapacity

Determination by board.

HeinOnline -- 1971 vol. I 607 1971

Powers of board.

is the result of injury or disease arising out of and in the course of employment. In the discharge of its duty regarding such determination, the board or any member thereof or duly authorized examiner or other duly authorized representative of the board shall have power to conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a claim for disability retirement. If the board determines on the evidence that it obtains and application filed that the disability resulted from injury or disease arising out of and in the course of employment, the said member shall be retired forthwith and be paid the benefits provided under the retirement system. Any such member incapacitated for the performance of duty by reason of a cause not included in the immediately preceding sentence, and any other member so incapacitated, regardless of the cause, shall be retired forthwith regardless of age but only after ten (10) years of service to the state, or to the contracting city.

Retirement.

Benefits.

(j) Subject to the requirements as to service and cause of disability stated in subdivision (i) of this section, and upon the application of a member or upon the application of the head of the office or department in which such member is or was last employed, or any other person on behalf of such member, while such member is in state service, within four (4) months after such member's discontinuance of state service, or while such member continuously, from the date of discontinuance of state service to the time of the application or motion, is physically or mentally incapacitated to perform his duties, may apply for, or the board of administration upon its own motion may order, a medical examination to determine the existence of such incapacity. Upon the receipt of such application, the board of administration shall order such medical examination. If the medical examination and other available information show, to the satisfaction of said board, that the member is incapacitated physically or mentally for the performance of his duties in the state service, the said board shall forthwith retire the member for disability. The said board shall secure such medical service and advice as is necessary to carry out the purposes of this section and of sections 68-1001

Medical examination.

Retirement.

Medical services.

HeinOnline -- 1971 vol. I 608 1971

through 68-1004, and shall pay for such medical services and advice such compensation as the board deems reasonable.

DISABILITY RETIREMENT ALLOWANCE

Disability retirement age 60.

(k) Upon retirement for disability a member who has attained the age of sixty (60) years shall receive a service retirement allowance as provided by subsections (a) through (g) of this section. Upon retirement of a member for disability resulting from injury or disease arising out of and in the course of employment, such member shall receive a retirement allowance of fifty per centum (50%) of his final compensation; provided, however, that for any period of time for which the industrial accident board has awarded compensation to the member, whether or not such compensation is received in weekly payments or in a lump sum, the retirement allowance shall be twenty-five per centum (25%) of his final compensation and at the end of such period of time shall revert to fifty per centum (50%) as provided above.

Allowances.

Compensation.

Other members—disability retirement allowance.

(1) Every other member retired for disability shall receive a retirement allowance which shall consist of:

Annuity.

(i) An annuity which shall be equal to *one one-hundred thirtieth (1/130)* of his final compensation multiplied by the number of years of state service; and

Pension.

(ii) If, in the opinion of the board of administration, such disability is not due to intemperance, willful misconduct or violation of law on the part of the member, a pension paid from the contributions of the state, or of the contracting city which, together with his annuity provided by his accumulated normal contributions, shall make the retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, equal to ninety percent (90%) of *one sixty-fifth (1/65)* of his final compensation multiplied by the number of years of service credited to him. In no event, however, shall this pension exceed twenty-five percent (25%) of his final compensation.

Limitation.

(iii) If, in the opinion of the board, the disability is due to intemperance, willful misconduct or violation of law, on the part of the member, and the annuity to which said member is entitled under subdivisions (k) and (l) of this section, is less than two hundred forty dollars

HeinOnline -- 1971 vol. I 609 1971

Lump sum in lieu of annuity.

($240) per year, the board of administration in its discretion, may pay to said member, in one lump sum and in lieu of said annuity, his accumulated contributions.

Calculation of final compensation for members of legislative assembly and lieutenant governor.

(m) For purposes of calculating final compensation a member of the legislative assembly and a lieutenant governor of the state of Montana may include as annual compensation all or any portion of the product of his compensation per day as a member, speaker of the house of representatives and president of the senate, including compensation earned prior to July 1, 1969, multiplied by three hundred sixty (360), if he pays thereon the normal contribution provided by this act. For purposes of calculating benefits under this subsection he may include all or any portion of his service as a member of the legislature and a lieutenant governor of the state of Montana using the product of his compensation per day multiplied by three hundred sixty (360) if he pays thereon the normal contribution provided by this act. He may also include his prior service."

Section 3. There is added to Title 68, chapter 9, R.C.M. 1947, a new section to read as follows:

"Index" defined.

68-902. **Adjusted Retirement Allowance.** (1) "Index" for purposes of this section shall mean, for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959-100) compiled by the Bureau of Labor Statistics, United States Department of Labor, or successor agency.

Increases effective July 1, 1971.

(2) Effective July 1, 1971, every service or disability retirement allowance then payable to a retired member pursuant to the provisions of section 68-901, R.C.M. 1947, or to his beneficiary pursuant to the provisions of section 68-1005, R.C.M. 1947, shall be increased by a percentage equal to one-half of the percentage increase in the index for 1970 from the index for the calendar year preceding the effective date of retirement of the member.

(3) Effective July 1, 1971, every survivorship annuity then payable to a member's beneficiary pursuant to the provisions of section 68-1101 (e), R.C.M. 1947, shall be increased by a percentage equal to one-half of the percentage increase in the index for 1970 from the index for the calendar year preceding the date of death of the deceased member.

HeinOnline -- 1971 vol. I 610 1971

Section 4. Section 68-1307, R.C.M. 1947, is amended to read as follows: Amending clause.

"68-1307. **Allocation of money to public employees' retirement fund — disbursement procedure — contributions under this section, how applied.** (a) During the biennium for which appropriations of money are made by this legislative assembly, there shall be paid monthly by each department, board, commission, bureau, or other agency of the state into the public employees' retirement fund out of moneys appropriated from the state general fund, a sum equal to *four and three-tenths percent (4.3%)* of the total compensation paid members of the retirement system *from July 1, 1971 through June 30, 1973; four and six-tenths percent (4.6%) from July 1, 1973 through June 30, 1975; and, four and nine-tenths percent (4.9%) of total compensation thereafter.* In computing the amount of compensation upon which *these percentages* shall be reckoned, there shall be included a sum equal to the amount of compensation which would have been paid to members of the system who elect to continue and do continue their contributions to the system and who are absent with the armed forces of the United States, so long as such absence shall be continued. Appropriation from general fund to retirement fund. Computation.

(b) Each department, board, commission, bureau or other agency of the state shall certify to the state auditor at the end of each month the total amount of compensation paid members of the retirement system, including that which would have been paid to members who are absent in the armed forces of the United States. The state auditor shall thereupon draw a warrant upon the state treasurer for the *contribution due from the state.* Said warrants shall be drawn on funds appropriated to each department, board, commission, bureau or other agency of the state to the credit of the public employees' retirement fund and the state treasurer shall deposit the amount thereof in said retirement fund. Duty to certify to state auditor. Warrant for contribution due from the state.

(c) Contributions made to the retirement system under this section shall be applied by the board of administration to meet the state's obligations under the system in such order and amount as said board shall determine; provided, however, that said contributions shall be first applied to the liability accruing because of state service rendered during such year and on account of pensions provided for in Application of contributions.

HeinOnline -- 1971 vol. I 611 1971

section 68-901, such amounts to be determined by actuarial valuation as computed by the actuary of the said board.

Duty to certify to state auditor.

(d) Each department, board, commission, bureau or other agency of the state under whose supervision there are state employees who are paid either fully or in part from federal funds, but who are not subject to the federal retirement system, shall certify to the state auditor at the end of each month the total amount of compensation paid such employees who are members of the retirement system; and the state auditor shall thereupon draw a warrant upon the state treasurer *for* the amount of *contribution due from the state with respect to* the compensation of such employees, regardless of whether such compensation is partly or entirely derived from federal funds. Such warrant shall be drawn on funds appropriated to such department, board, commission, bureau or other agency of the state to the credit of the public employees' retirement fund and the treasurer shall deposit the amount thereof in said retirement fund.''

Warrant for contribution due from the state.

Approved March 1, 1971

CHAPTER NO. 117

An Act to Amend Section 87-109, R.C.M. 1947, Which Section Is a Part of the Unemployment Compensation Law, by Extending Coverage to Non-Profit Organizations in Conformity with Public Law 91-373, Employment Security Amendments of 1970; Reducing the Time Required to Qualify for a Reduced Rate from Five (5) Years to Three (3) Years; Requiring Reports to be Filed and Contributions to be Paid for the Computation Period Before Less Than the Assigned Maximum Contribution Rate Can be Assigned; Providing for an Exception in Limiting Amount of Increase in Contribution Rate; Increasing the Tax Base from Three Thousand Dollars ($3,000) Per Annum Per Employee to Four Thousand Two Hundred Dollars ($4,200), and Providing an Effective Date in Conformity with Public Law 91-373, Employment Security Amendments of 1970; Providing for Employer Appeals; Deleting Language no Longer Applicable; Reducing Average Annual Tax Rate for 1972.

HeinOnline -- 1971 vol. I 612 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 87-109, R.C.M. 1947, is amended to read as follows: Amending clause.

"87-109. **Contributions.** (a) **Payment.** (1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages, as defined in section 87-149 (c), paid for employment (as defined in this act) occuring during such calendar year. Such contributions shall become due and be paid by each employer to the commission for the fund in accordance with such regulations as the commission may prescribe and shall not be deducted, in whole or in part, from the wages of individuals in his employ. Employers contributions.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent (½¢) or more, in which case it shall be increased to one cent (1¢).

(b) Rate of contribution. Rate.

(1) Each employer shall pay contributions at the rate of three and one-tenth per centum (3.1%) of wages, as defined in section 87-149 (c) paid by him with respect to such employment, except as provided in subsection (c) of this section. 3.1% of wages.

Nonprofit organizations defined in section 87-148 (j) (7) may elect to make payments in lieu of contributions; the state and its political subdivisions specifically covered by this act and those electing coverage shall make payments in lieu of contributions. Payments in lieu of contributions.

(2) Employers required or electing to make payments in lieu of contributions shall pay into the fund an amount equivalent to the full amount of regular benefits plus one-half (½) of the amount of extended benefits paid to individuals based on wages paid by such employing unit. If benefits paid an individual are based on wages paid by both such employer and one (1) or more other employers, the amount payable by such employer to the fund shall bear the same ratio to total benefits paid to the individual as the base period wages paid to the individual by such employer bear to the total amount of base period wages paid to the individual by all his base period employers. Computation of payments. Ratio where more than one employer.

HeinOnline -- 1971 vol. I 613 1971

If the base period wages of an individual include wages from more than one (1) such employer, the amount to be paid into the fund with respect to the benefits paid to such individual shall be prorated among the liable employers in proportion to the wages paid to such individual by each such employer during the base period. The amount of payment required from such employers shall be ascertained by the commission quarterly and shall become due and payable by such employer quarterly as directed in this act. Penalty and interest for delinquency shall be assessed such employers as specified in section 87-135.

Prorated.

Quarterly payments.

Penalty and interest.

(3) After December 31, 1971, any nonprofit organizations as defined in section 87-148 (j) (7) electing to become liable for payments in lieu of contributions for a period of not less than one (1) year must file with the commission a written notice of its election not later than thirty (30) days immediately following the date of the determination of subjectivity to this act. This election shall not be terminable by the organization for that and the next year. If the nonprofit organization is delinquent in making payments in lieu of contributions, the commission may terminate the election to make payments in lieu of contributions as of the beginning of the next taxable year, and such termination shall be effective for that and the next taxable year.

Nonprofit organization must file notice of election to make payments not later than 30 days.

Delinquency.

Termination of election.

(4) Payments in lieu of contributions by the state and its political subdivisions shall be an amount equivalent to the amount of benefits paid to individuals based on wages paid by the state and its political subdivisions. The method of determining benefits attributable shall be the same as that set forth in subsection (b) (2) of this section. The amount of payments shall be paid in such manner as the commission may prescribe.

Computation of payments by state and political subdivisions.

Determination of benefits.

(c) Experience rating.

The commission shall for each calendar year, classify employers in accordance with their actual contributions and unemployment experience and shall determine for each employer the rate of contributions which shall apply to him throughout the calendar year in order to reflect said experience and classification. The commission shall apply such form of classification or experience rating system which is best calculated to rate individually and most equitably the employment for each employer and to encourage the stabilization of employment.

Commission shall classify employers.

Determine rate of contributions.

HeinOnline -- 1971 vol. I 614 1971

In making such classification, the commission shall take account, each to an equal extent, of the following factors relating to the unemployment hazard shown by each employer on the basis of (1) average annual net percentage declines in *total* payrolls for the last three (3) years prior to computation date; (2) number of years the employer has paid contributions; and (3) chargebacks to the individual employer account upon the last employer basis. The computation date is hereby fixed as of the close of business on June 30 of the preceding calendar year.

Factors to be considered.

Computation date—June 30 of preceding year.

The rates for the *first* calendar quarter of calendar year *1972* and thereafter, except as hereinafter provided, shall be so fixed that they would, if applied to all employers *(except those employers making payments in lieu of contributions)* and their total taxable annual payrolls for the preceding calendar year, have yielded total paid contributions equaling approximately one and *five-tenths* per centum *(1.5%)* of the total of all such payrolls.

Rates—first calendar quarter of 1972.

The commission shall determine the contribution rate applicable to each employer for any calendar year subject to the following limitations:

Limitations.

(1) Each employer's rate shall be three and one-tenth per centum (3.1%) unless and until there have been *three (3)* years prior to the computation date throughout which the employer has paid contributions at the maximum tax rate set by law for each of such years *and has reported and paid contributions during each of the three (3) calendar years immediately preceding the computation date and with respect to such three (3) calendar years has filed all contribution reports prescribed by the commission and paid all contributions due with respect to the three (3) calendar years before March 31 of the rate year. Upon payment of past-due contributions the commission shall, for the current year, compute a rate for the next succeeding quarter following the payment.*

3.1% until three years of paid contributions.

Reports.

Rate for next quarter.

(2) The classified contribution rates for the calendar year 1969, and thereafter, except as hereinafter provided, shall be: five-tenths of one per centum (.5%), seven-tenths of one per centum (.7%), nine-tenths of one per centum (.9%), one and one-tenth per centum (1.1%), one and three-tenths per centum (1.3%), one and five-tenths per centum (1.5%), one and seven-tenths per centum (1.7%), one and nine-tenths per centum (1.9%), two

Classified contribution rates for 1969.

HeinOnline -- 1971 vol. I 615 1971

and one-tenth per centum (2.1%), two and three-tenths per centum (2.3%), two and five-tenths per centum (2.5%), two and seven-tenths per centum (2.7%), two and nine-tenths per centum (2.9%), and three and one-tenth per centum (3.1%).

Limitations.

(3) No employer shall be assigned a classified contribution rate higher than the second classified rate above the rate which was assigned to him for the last preceding calendar year except for the year 1961 and further as hereinafter provided. *This subsection shall not apply when the employer's chargeback ratio exceeds one hundred percent (100%).*

Option to make voluntary contribution.

(4) *An employer* whose benefit payments *(*charged as most recent employer*)* in the last three (3) years preceding the computation date exceeded the amount of his contributions for those years, may have the option of making a voluntary contribution to the unemployment compensation fund to cancel the amount by which the benefit payments charged to him under section 87-109 (c) during the last three (3) completed fiscal years exceed his contributions for the same three (3) years. Such voluntary contribution shall be applied first to cancel the amount by which benefits exceed contributions in the earliest of the three (3) years preceding the computation date, any remaining to cancel the excess in the second earliest year preceding the computation date, and any further remaining to cancel the excess in the most recent year preceding the computation date. Whenever the benefit payments charged to an eligible employer in the last three (3) fiscal years exceed his contributions for the same period, the commission shall notify him of the amount of such excess and the rate which would be applicable to him for the ensuing calendar year, if he exercises the option. Such employer must exercise the option of making the voluntary contribution allowed by this section within thirty (30) days after receipt of such notice.

Application of money.

Notice.

30 days.

Rates in effect until fund falls below $18,000,000 for one year.

(5) Rates as fixed by the commission shall stand and be in effect unless and until the cash reserves in the unemployment compensation trust fund at any time in the future fall below, and remain below, eighteen million dollars ($18,000,000) continuously for a period of one (1) year, then employer rates effective at the beginning of the next succeeding calendar quarter shall be so fixed that they would, if applied to all employers and their total

HeinOnline -- 1971 vol. I 616 1971

taxable annual payrolls for the preceding calendar year, have yielded total paid contributions equaling approximately two per centum (2%) of the total of all such payrolls, and shall continue at the two per centum (2%) average rate until cash reserves in the unemployment compensation trust fund exceed twenty-six million dollars ($26,000,000) at which time all employer rates shall again be so fixed to bring an average return of one and *five-tenths* per centum *(1.5%)* as in this section hereinabove provided; if reserves remain below eighteen million dollars ($18,000,000) continuously for a period of two (2) years, then the contribution rate of all employers subject to this act shall return to a uniform rate of three and one-tenth per centum (3.1%) effective at the beginning of the next succeeding calendar quarter, and shall continue at the three and one-tenth per centum (3.1%) rate until cash reserves in the unemployment compensation trust fund exceed twenty-six million dollars ($26,000,000) at which time all employer rates shall again be so fixed to bring an average return of one and *five-tenths* per centum *(1.5%)* as in this section hereinabove provided.

2% of payrolls.

Until fund exceeds $26,000,000.

Return to 1.5%.

3.1%.

1.5%.

(6) The commission shall by regulation adopt such procedures as may be necessary for the substitution, merging or acquisition of an employer account by an employing unit, and the transfer of such employer account, rights, contributions, benefit experience and ratings to the successor employing unit or units.

Commission shall adopt procedures for transfer to successor employing unit.

(7) The commission shall by regulation provide for the proper notification of employers of the classification and rate of contribution applicable to their accounts. Such notification shall be final for all purposes unless and until such employer files a written request with the commission for a redetermination or hearing thereon within thirty (30) days after receipt of such notice.

Notification to employers.

Request for hearing. 30 days.

(8) "Annual *total* payroll" means the total of the four (4) quarters of *total* payrolls of an employer preceding the computation date as fixed herein.

"Annual total payroll defined.

(9) No employer's account shall be charged with benefits paid to any claimant in determining the contribution rate of such employer;

Limitations on charging account with benefits paid.

(A) If the claimant has been disqualified under section 87-106 (a), (b), (g) or (h), as a result of separation from such employer;

HeinOnline -- 1971 vol. I 617 1971

(B) If the claimant left work for non-disqualifying reasons as provided in section 87-106 (a);

(C) Unless the employer has had notice of the claim for the benefits and has been given opportunity for hearing as an interested party in the manner provided in sections 87-107 and 87-108. Written notice of any hearing shall be mailed to employer not less than ten (10) days prior to the date set.

Limitation on wages paid prior to 1972.
$3,000.

(d) The provisions of this act requiring the payment of contributions by employers subject to this act shall apply only to wages paid up to and including three thousand dollars ($3,000) by an employer to an employee with respect to employment during any calendar year *preceding the year 1972.*

Wages paid in 1972 and thereafter $4,200.

Payment of contributions shall apply only to wages paid up to and including four thousand two hundred dollars ($4,200) by an employer to an employee with respect to employment during the calendar year 1972 and thereafter.

(e) Contribution appeals.

Review provided.

A review of a decision or determination involving contribution liability, contribution rate or application for refund shall be made by the commission or its authorized representative, hereinafter referred to as a deputy, in accordance with the provisions of this act and the decision of the deputy conducting the review shall be deemed

Conduct of review.

to be the decision of the commission. The commission or the deputy conducting the review may refer the matter to an appeal referee, may decide the application for review on the basis of such facts and information as may be obtained or may hear argument to secure further facts.

Notice of decision.

After such review, notice of the decision shall be given to the employing unit. Such decision made pursuant to such review shall be deemed to be the final decision of the commission unless the employing unit or any other such interested party, within five (5) calendar days after delivery of such notification or within seven (7) calendar days after such notification was mailed to his last known address, files an appeal from this decision. Such appeal will be referred to an appeal referee who shall make his decisions with respect thereto in accordance with the procedure prescribed in section 87-107 (c).''

Appeal.

Approved March 1, 1971

HeinOnline -- 1971 vol. I 618 1971

CHAPTER NO. 118

An Act to Amend Section 75-6410, R.C.M. 1947, Providing the Qualifications of Electors at School Elections by Changing the Voting Age from Twenty-one to the Minimum Age Provided by the Constitution of the State of Montana; and Providing Residency Requirement.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-6410, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-6410. **Qualifications of elector.** Except as provided in section 75-6411, every person is entitled to vote at school elections if he has the following qualifications: School elector qualifications.

(1) He has registered to vote with the county registrar in the manner provided by the general state election laws except in regard to the closure of elector registration as provided in section 75-6413; Registration.

(2) *He shall be of a minimum age for voting provided by the Constitution of the State of Montana;* Age.

(3) *He has met the residency requirement for voting as provided by the Constitution of the State of Montana; and* Residency.

(4) He is a citizen of the United States. Citizen.

No person convicted of a felony has the right to vote unless he has been pardoned. Felon excluded.

No person adjudicated insane has the right to vote unless he has been restored to capacity as provided by law." Insane person excluded.

Section 2. This act is effective on passage and approval. Effective immediately.

Approved March 1, 1971.

CHAPTER NO. 119

An Act to Amend Section 16-405, R.C.M. 1947, Providing for Registration of Voters for Elections, by Changing the Age of a Qualified Voter from Twenty-One Years

HeinOnline -- 1971 vol. I 619 1971

of Age to the Minimum Age for Voting Provided by the Constitution of the State of Montana, and Establishing Residency Requirement; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-405, R.C.M. 1947, is amended to read as follows:

Registration period for voters.

"16-405. **Registration of voters.** The period for the registration of electors shall be between the hours of nine a.m. and nine p.m. on all legal days from nine a.m. of the fourth Monday prior to the date of said election to nine p.m. of the second following Saturday. It shall be the duty of each registry agent to publish and post notices of the time and places of registration in the manner provided by law for the publication of notices of registration for general elections. No person shall be entitled to register and vote at such special election unless he is a qualified voter of the state of Montana of the *minimum age provided by the Constitution of the state of Montana and has met the residency requirement for voting provided by the Constitution of the state of Montana,* and also takes and subscribes to the oath provided in section 479, (sic) R.C.M. 1947.

Duty to publish and post notices.

Constitutional requirements. Age. Residency.

Oath.

General election laws apply.

The general election laws of this state governing the registration of electors and defining the duties of the registry agents shall apply to and govern the registration of electors in elections held under this act in so far as the same do not conflict herewith."

Effective immediately.

Section 2 This act is effective on passage and approval.

Approved March 1, 1971

CHAPTER NO. 120

An Act to Amend Section 23-2701, R.C.M. 1947, Providing Qualifications of Electors by Reducing the Age from Twenty-One (21) to the Minimum Age for Voting Prescribed by the Constitution of the State of Montana, Except that the Age will be Eighteen (18) for Elections for President and Vice-President of the United

HeinOnline -- 1971 vol. I 620 1971

States; by Reducing the Residency Requirement to Thirty (30) Days for Elections for President and Vice-President of the United States; and by Repealing Sections 23-2702 and 23-2703, R.C.M. 1947, Pertaining to Qualifications of Electors to Vote on Questions of Incurring a State Debt, Issuing Bonds, or Levying a State Tax

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 23-2701, R.C.M. 1947, is amended to read as follows: Amending clause.

"23-2701. **Qualifications of voter.** (1) Every person, if registered as required by law, is entitled to vote at all general and special elections for all officers which are elective, and upon all questions submitted to the vote of the people if he has the following qualifications: Qualifications of voters.

(a) He must be *of the minimum age for voting prescribed by the constitution of the state of Montana, except that to vote for president and vice-president of the United States, or for United States senator or representative, he must be eighteen (18) years of age;* Age.

(b) He *has met the residence requirements for voting provided in the constitution of the state of Montana and has resided* in the county thirty (30) days immediately preceding the election at which he offers to vote, *except that if he has resided in the state for thirty (30) days immediately preceding the election at which he offers to vote, he shall be allowed to vote for president and vice-president of the United States;* Residency.

(c) He must be a citizen of the United States. Citizen.

(2) No person convicted of a felony has the right to vote unless he has been pardoned. Felon cannot vote.

(3) No person adjudicated insane has the right to vote unless he has been restored to capacity as provided by law." Insane cannot vote.

Section 2. Sections 23-2702 and 23-2703, R.C.M. 1947, are hereby repealed. Repealing clause.

Section 3. This act is effective on passage and approval. Effective immediately.

Approved March 1, 1971

HeinOnline -- 1971 vol. I 621 1971

CHAPTER NO. 121

An Act to Amend Sections 59-1001, R.C.M. 1947, to Change the Waiting Period Required Before Public Employees Earn Vacation and to Amend Section 59-1002, R.C.M. 1947, to Provide that Accumulated Vacation Credits Cannot Exceed Thirty (30) Working Days as of the End of Any Calendar Year and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 59-1001, R.C.M. 1947, is amended to read as follows:

Public employees earn annual vacation.

"59-1001. **Annual vacation leave.** (1) Each employee of the state, or any county or city thereof, who *is* in continuous employment and service of the state, county or city thereof, is entitled to and shall *earn* annual vacation leave *credit from the first full calendar month of employment. However, employees are not entitled to any leave with full pay until they have worked continuously for a period of twelve (12) calendar months. Vacation credits shall be earned in accordance with the following schedule:*

After working 12 months.

Computation.

(a) from one (1) *month through* ten (10) years of employment at the rate of one and one-quarter (1¼) working days for each month of service;

(b) from *eleven (11)* years *through* fifteen (15) years of employment at the rate of one and one-half (1½) working days for each month of service;

(c) from *sixteen (16)* years *through* twenty (20) years of employment at the rate of one and three-fourths (1¾) working days for each month of service;

(d) after twenty (20) years of employment at the rate of two (2) working days for each month of service."

Amending clause.

Section 2. Section 59-1002, R.C.M. 1947, is amended to read as follows:

Maximum 30 working days as of last of year.

"59-1002. **Accumulation of leave.** Annual vacation leave may be accumulated to a total not to exceed thirty (30) working days *as of the last day of any calendar year.*"

Effective immediately.

Section 3. This act is effective upon its passage and approval.

Approved March 1, 1971

HeinOnline -- 1971 vol. I 622 1971

CHAPTER NO. 122

An Act Amending Sections 75-7806 and 75-7816, R.C.M. 1947, to Provide for Education of Mentally Retarded to Age Twenty-five (25).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-7806, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-7806. **Discretionary establishment of special education class or program.** The trustees of any district may establish and maintain a special education class or special education program for: (1) four (4) or more educable mentally retarded children; Trustees may establish special education.

(2) four (4) or more physically handicapped children;

(3) four (4) or more trainable mentally retarded children;

(4) individual children requiring special education such as home or hospital tutoring, school-to-home telephone communication, or other individual programs;

(5) educable mentally retarded children or physically handicapped children under the age of six (6) years of age when the superintendent of public instruction has determined that such programs will: Determination by state superintendent.

(a) assist a child to achieve levels of competence that will enable him to participate in the regular instruction of the district when he could not participate without special education;

(b) permit the conservation or early acquisition of skills which will provide the child with an equal opportunity to participate in the regular instruction of the district; or

(c) provide other demonstrated educational advantages which will materially benefit the child*; or*

(6) educable mentally retarded persons or physically handicapped persons who are not less than twenty-one (21) or more than twenty-five (25) years of age when the superintendent of public instruction has determined that such programs will assist a person to achieve levels of competence that will enable him to better participate in society." Persons 21 to 25 years of age.

HeinOnline -- 1971 vol. I 623 1971

Amending clause.

Section 2. Section 75-7816, R.C.M. 1947, is amended to read as follows:

Financial assistance.

"75-7816. **Financial assistance for under six *(6)* year old special education class or program.** Any district operating an approved special education class or program

Age limits.

for children under the age of six *(6)* years *or for people who are not less than twenty-one (21) or more than twenty-five (25) years of age* shall be eligible for financial assistance in accordance with section 75-7813 and for transportation reimbursement under section 75-7815.

Approved March 1, 1971.

CHAPTER NO. 123

An Act Amending Sections 75-7805 through 75-7807, R.C.M. 1947, to Include Trainable Mentally Retarded Children.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-7805, R.C.M. 1947, is amended to read as follows:

Trustees shall establish special education.

"75-7805. **Mandatory establishment of special education class.** The trustees of any district shall establish and maintain at least one applicable special education class when there are ten (10) or more educable mentally retarded children in the district *and at least one (1) applicable special education class when there are seven (7) or more trainable mentally retarded children in the district,* and at least one (1) applicable special education class when there are ten (10) or more physically handicapped children in the district."

Ten or more in district.

Seven or more in district.

Amending clause.

Section 2. Section 75-7806, R.C.M. 1947, is amended to read as follows:

Trustees may establish special education.

"75-7806. **Discretionary establishment of special education class or program.** The trustees of any district may establish and maintain a special education class or special education program for: (1) four (4) or more educable mentally retarded children;

(2) four (4) or more physically handicapped children;

(3) four (4) or more trainable mentally retarded children;

HeinOnline -- 1971 vol. I 624 1971

(4) individual children requiring special education such as home or hospital tutoring, school-to-home telephone communication, or other individual programs; or

(5) educable mentally retarded children, *trainable mentally retarded children* or physically handicapped children under the age of six (6) years of age when the superintendent of public instruction has determined that such programs will:

Determination by state superintendent.

(a) assist a child to achieve levels of competence that will enable him to participate in the regular instruction of the district when he could not participate without special education;

(b) permit the conservation or early acquisition of skills which will provide the child with an equal opportunity to participate in the regular instruction of the district; or

(c) provide other demonstrated educational advantages which will materially benefit the child."

Section 3. Section 75-7807, R.C.M. 1947, is amended to read as follows:

Amending clause.

"75-7807. **Petition of parents for establishmeent of special education class or program.** The parents of four (4) or more children needing special education of one type of educable mentally retarded children, *trainable mentally retarded children* or physically handicapped children may petition the trustees to establish a special education class or program. Parents residing in several contiguous districts may petition the trustees of each district to cooperatively establish a special education class or program of one type for four (4) or more children. The interlocal cooperative agreement authorized in chapter 49 of Title 16, R.C.M. 1947, shall be used to establish a multi-district special education class or program."

Parents of four or more may petition.

Multi-district.

Approved March 1, 1971.

CHAPTER NO. 124

An Act Amending Section 72-143, R.C.M. 1947, Providing that the Board of Railroad Commissioners Provide a Copy of the Annual Report to be Mailed to the Secre-

HeinOnline -- 1971 vol. I 625 1971

tary of the Department of Transportation; Amending Section 72-150, R.C.M. 1947, Providing that the Rules and Regulations of the Board Regarding Equipment of Cars, Trains, Engines, Health and Sanitation be Coextensive with the Provisions of the Department of Transportation; Amending Section 72-151, R.C.M. 1947, Providing that the Rules and Regulations of the Board Concerning Examination, Inspection and Repair of Brake Equipment be Coextensive with the Requirements of the Department of Transportation.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 72-143, R.C.M. 1947, is amended to read as follows:

Annual report—board of railroad commissioners. "72-143. **Results to be stated in annual report.** Said board shall, in its annual report, set out what effort it has made to carry out the provisions of this act, with the result thereof, and in detail what steps it has taken to procure to be prosecuted any violations of any such acts of which it has secured information. *A copy of this annual report shall be mailed to the secretary of the department of transportation.*"

Copy to secretary.

Amending clause. Section 2. Section 72-150, R.C.M. 1947, is amended to read as follows:

Authority of board to make rules—regulation of trains. "72-150. **Rules for equipment of cars, trains, engines, and health and sanitation.** The railroad commission of the state of Montana shall have full authority, after notice and hearing, to make and enforce rules and regulations providing for the installation on and equipment of trains, cars, or engines, with safety appliances, and providing for sanitation and adequate shelter as it affects the health of all railroad employees, including, but not limited to, trainmen, enginemen, yardmen, maintenance of way employees, highway crossing watchmen, clerical, platform, freight house and express employees; and shall have authority to inspect the same and enforce regulations with regard thereto, such inspection rules and regulations to be from time to time coextensive with the requirements of, and in conformity to, the provisions of the acts of Congress, and rules and regulations of the interstate commerce commission *and the department of transportation* as then effective."

HeinOnline -- 1971 vol. I 626 1971

Section 3. Section 72-151, R.C.M. 1947, is amended to read as follows: Amending clause.

"72-151. **Brake equipment.** The railroad commission of the state of Montana shall have the power and authority to examine and inspect all brakes and brake equipment and, after notice and hearing, to make and enforce reasonable rules and regulations with respect to the examination, inspection, and repair thereof, with a view of determining the proper measure of efficiency of said brakes and brake equipment. Such rules and regulations to be from time to time co-extensive with the requirements of and in conformity to the provisions of the acts of Congress, and rules and regulations of the interstate commerce commission *and the department of transportation* as then effective." Authority of board to make rules—brake equipment.

Approved March 1, 1971.

CHAPTER NO. 125

An Act to Provide a Voluntary Consolidation and Annexation Incentive Plan for School Districts and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act shall be known as the voluntary consolidation and annexation incentive plan. The purpose of this plan is to provide additional financial assistance to school districts that consolidate or annex under the provisions of sections 75-6506, 75-6508, or 75-6511, R.C.M. 1947, for elementary school districts or section 75-6521, R.C.M. 1947, for high school districts. Voluntary consolidation and annexation incentive plan—purpose—financial assistance.

Section 2. As used in this act, unless the context clearly indicates otherwise: Definitions.

"enlarged district" is the elementary or high school district resulting from the consolidation or annexation of two or more component districts; "Enlarged district."

"component districts" are the elementary or high school districts incorporated into the enlarged district; "Component districts."

"eligible pupils" shall be: the average number belonging for the current school year in the operating "Eligible pupils."

HeinOnline -- 1971 vol. I 627 1971

schools of the component districts and the tuition pupils residing in the component districts and attending another district's school under the tuition provisions of the school laws; except that the pupils residing in the component district having the largest total number of pupils shall be ineligible for bonus payment consideration;

"General bonus payment."

"general bonus payment" shall be one hundred dollars ($100) per eligible pupil per year for a period of three (3) years and will be deposited in the enlarged district's general fund. Such payment shall be made from the state school equalization aid account;

"Transportation bonus payment."

"transportation bonus payment" will be the provision of sixty-six and two-thirds percent (66 2/3%) state financing of the on-schedule transportation amount as provided by the transportation provisions of the school laws. When an eligible pupil is entitled to transportation, the enlarged district shall be entitled to the transportation bonus payment for such eligible pupil for a period of three (3) years. Such payment shall be made from the state transportation aid account. When the eligible pupil rides a bus providing transportation for ineligible pupils, the sixty-six and two-thirds percent (66 2/3%) state financing of the on-schedule amount for this payment shall be prorated to provide such financing for the eligible pupil.

On consolidation or annexation.

Section 3. Whenever two (2) or more elementary school districts consolidate or annex under the provisions of sections 75-6506, 75-6508, or 75-6511, R.C.M. 1947, or two (2) or more high school districts consolidate under the provisions of section 75-6521, R.C.M. 1947, the enlarged district may make application for the bonus payment as provided herein if such consolidation or annexation shall result in the dissolution of at least one (1) elementary or high school district. Application for the bonus payments must be made during the school year of the order creating the enlarged school district.

Enlarge district may apply for bonus payment.

Procedure.

Section 4. Application for the bonus payments shall be made to the superintendent of public instruction and shall include a copy of the order issued by the proper officials creating such enlarged school district, the number of eligible pupils as defined herein, and any other information the superintendent of public instruction may deem necessary.

HeinOnline -- 1971 vol. I 628 1971

Determination by state superintendent.

Section 5. The superintendent of public instruction shall approve only those applications which demonstrate compliance with the requirements of this act. When an application is approved, the superintendent of public instruction shall determine the number of eligible pupils for the bonus payments. He shall notify the enlarged district's board of trustees and the county superintendent(s) of the disapproval of the application or of the approval of the application establishing the number of eligible pupils.

Notice.

Disbursements.

Section 6. On or before June 30 of the next three (3) consecutive years following the year of application, the superintendent of public instruction shall disburse the bonus payments for approved applications to the enlarged school district. The general bonus payment shall be deposited by the county treasurer in the enlarged district's general fund and the transportation bonus payment shall be deposited by the county treasurer in the transportation fund. These bonus payments shall not be considered as a part of the regular state equalization aid or state transportation aid received by the enlarged district.

Deposits.

Effect of reduction in size.

Section 7. Any reduction in the amount of territory encompassed in the enlarged school district's territory during the three-year period of bonus payments shall establish an ineligibility of the enlarged district to receive any remaining bonus payments under this act.

Effect of subsequent additions.

Section 8. The subsequent addition of other component districts to the enlarged district shall entitle such enlarged district to additional bonus payments under the provisions of this act.

Effective immediately.

Section 9. This act shall be effective on its passage and approval.

Approved March 1, 1971

CHAPTER NO. 126

An Act to Regulate the Placing of Caged Fish in Public Waters and Provide the Fish and Game Commission with Authority to Regulate.

HeinOnline -- 1971 vol. I 629 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Placing caged fish in public waters prohibited.

Section 1. **Prohibiting the placing of caged fish in public waters and provide the fish and game commission authority to regulate.** It shall be unlawful for any person, firm or corporation to place or cause to be placed caged live fish in any of the public waters of the State of Montana, except as provided by fish and game commission regulation.

Authority to regulate.

Section 2. The commission shall have the authority to regulate the placing of caged fish in public waters to protect the recreational and aesthetic use of such water from pollution, excessive private use and the introduction of disease.

Approved March 1, 1971

CHAPTER NO. 127

An Act Amending Section 90-201, R.C.M. 1947, Relating to the Definitions of Grades of Apples.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 90-201, R.C.M. 1947, is amended to read as follows:

Standard grades of apples.

"90-201. **Grades of apples.** The standard grades of apples for the state of Montana shall be: "Extra fancy or first grade," "Fancy or second grade," "C," "Combination grade," and "Hail grade," *and "Orchard-run grade."*

"Extra fancy or first grade."

(a) "Extra fancy or first grade," shall consist of apples of one variety which are mature, hand-picked, clean, well formed, sound, free from bruises, limbrubs, spray burns, sunburn, russeting, drought spot, hail marks, visible water core, broken skin, apple scab, stings, and from diseases and insect injury, except that slight blemishes shall be permitted in this grade.

"Fancy or second grade."

(b) "Fancy or second grade" shall consist of apples of one variety which are mature, hand-picked, clean, fairly well formed, sound, free from visible water core, broken skin, and from damage caused by bruises, limbrub, spray burns, sunburn, russeting, drought spot, hail marks, apple scabs, diseases and insect injury.

HeinOnline -- 1971 vol. I 630 1971

(c) "C" grade shall consist of apples of one variety which are mature, hand-picked, clean, not badly misshapen, sound, free from broken skin and from serious damage caused by bruises, limbrub, russeting, drought spot, hail marks, apple scab, diseases and insect injury, and must have fifteen per centum (15%) of color requirements characteristics of the variety. The word "choice" must not be used in connection with this grade. "C" grade.

(d) Cull apples shall consist of apples free from infection or disease or serious damage but which do not meet the requirements of extra fancy or first grade, fancy or second grade, or of "C" grade and shall be marked in block letters not less than one inch in height on both ends of box "culls." Cull apples.

(e) "Combination grade." When "extra fancy or first grade" and "fancy or second grade" apples are packed together, the boxes must be marked "combination extra fancy or first grade and fancy or second grade." This combination grade must contain at least twenty-five per centum (25%) of apples which belong to the higher grade in combination. "Combination grade."

(f) "Hail grade" shall meet all requirements of "Extra fancy," "Fancy grade" except hail marks. Such hail marks must not materially deform or disfigure the fruit or affect more than one-tenth (1/10) of the surface in the aggregate where skin has not been broken. Provided, that unhealed hail marks shall not be permitted and not more than an aggregate area of one-half (½) inch shall be allowed for well-healed hail marks where the skin has been broken. "Hail grade."

(g) "Orchard-run grade" shall consist of apples of one variety, which are mature, hand-picked, clean, sound, free from infection or disease or serious damage and must have fifteen per centum (15%) color requirements characteristic of the variety and shall be marked in block letters not less than one inch in height on both ends of box "Orchard-run grade." "Orchard-run grade."

(h) No apples smaller than two and one-fourth (2¼) inches in diameter shall be permitted in any grade. Size limitation.

Small apples which are under size requirements as prescribed may be shipped if marked "small" in block letters not less than one inch in height on both ends of box, provided such apples are free from insect pests and diseases. "Small."

HeinOnline -- 1971 vol. I 631 1971

10% tolerance.

(i) In order to provide for variations incident to commercial grading and handling a tolerance of ten per centum (10%) for a total of all defects from the standard of the grade shall be allowed."

Approved March 1, 1971

CHAPTER NO. 128

An Act Extending the Authority of the Western Interstate Commission for Higher Education Including the Placement of Montana Students in Schools Outside the Wiche Region and for Related Proposals.

Be it enacted by the Legislative Assembly of the State of Montana:

Western interstate commission authorized to act.

Placement of students out-of-state.

Contracts.

Provisions.

Section 1. The Western Interstate Commission for Higher Education is authorized to act on behalf of this state in making arrangements for the placement of students in institutions and programs of higher learning outside the states which are parties to the compact for establishing the commission. For that purpose, the commission may negotiate and enter into arrangements and contracts with this state or any appropriate agency thereof, with public and private educational institutions and agencies, and with states and other governmental entities. Such arrangements and contracts may provide for the obtaining of one or more places for students on either a special or continuing basis; the payment of partial or full tuition and other charges; and the furnishing of reciprocal, compensating or other advantages and benefits in support of the educational program involved.

Limited to written agreements.

Provisions.

Section 2. The authority conferred by section 1 of this act shall be exercised only pursuant to written agreement between an agency of this state having responsibility for or duties with respect to programs for assisting residents of this state to obtain higher education. Any such agreements shall include provisions for the payment of tuition and any other costs, and no such agreement shall be made which commits this state or any agency or officer thereof to any obligation for which funds have not been appropriated or otherwise made available in accordance with law.

HeinOnline -- 1971 vol. I 632 1971

Section 3. Nothing contained in this act shall be construed to alter any of the obligations or restrict or impair any rights which this state may have under the compact establishing the commission. Construction of act.

Approved March 1, 1971.

CHAPTER NO. 129

An Act Amending Section 26-202.1, R.C.M., 1947, to Increase the Special License Fee for Taking Grizzly Bear from One Dollar to Five Dollars for Residents and from Twenty-five Dollars to Thirty-five Dollars for Nonresidents and to Require a Special License Fee of Five Dollars for Residents and Thirty-five Dollars for Nonresidents for taking Black or Brown Bear.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-202.1, R.C.M., 1947, is amended to read as follows: Amending clause.

"26-202.1 **Licenses — fees — classifications of licenses — fees and powers under licenses.** (1) **Class A license — Resident Fishing License.** Any resident as defined by section 26-202.3, upon payment of a fee of four dollars ($4) shall receive a Class A license which shall entitle the holder thereof to fish with hook and line or rod as authorized by regulations of the commission. Class A resident fishing license fee $4.

(2) **Class A-1 license — Resident Game Bird License.** Except as herein provided, any resident as defined by section 26-202.3, who is twelve (12) years of age or older, may, upon payment of a fee of two dollars ($2) receive a Class A-1 license, which will entitle the holder to pursue, hunt, shoot and kill game birds and possess the dead bodies of game birds which are so authorized by regulations of the commission. Class A-1 resident game bird license fee $2.

(a) No hunting licenses shall be issued to any resident person under the age of eighteen (18) years unless he presents to the person authorized to issue such license a certificate of competency as provided by this section. Person under 18 must present certificate of competency.

The department of fish and game shall provide for a course of instruction in the safe handling of firearms and for the purpose may cooperate with any reputable assoc- Department shall provide course of instruction.

HeinOnline -- 1971 vol. I 633 1971

iation or organization having as one of its objectives the promotion of safety in the handling of firearms. The department may designate any person found by it to be competent to give instructions in the handling of firearms. A person so appointed shall give such course of instruction and upon the successful completion thereof shall issue to the person instructed a certificate of competency in the safe handling of firearms.

Class A-2 bow and arrow license fee $3.

(3) **Class A-2 License — Special Bow and Arrow License.** Any holder of a Class A-1 license and any one of the following: a Class A-3, A-4, A-5, B-2, B-5 or B-6 license, may upon payment of an additional sum of three dollars ($3) to any agent of the fish and game commission authorized to issue fishing and hunting licenses be entitled to a Class A-2 license, which shall authorize the holder thereof to pursue, hunt, shoot, and kill deer, antelope and elk with bow and arrow and to possess the carcass of deer, antelope and elk during a special season, as so licensed and in special areas, as may be designated by the fish and game commission.

Resident fees— big game tags.

(4) **Class A-3, A-4, A-5,** *A-6* **Licenses.** Any resident as defined by section 26-202.3 who is twelve (12) years of age or older, may upon payment of the proper fee or fees be entitled to purchase one each of the following licenses: Class A-3, Deer A Tag, three dollars ($3); Class A-4, Deer B Tag, five dollars ($5); Class A-5 Elk Tag, three dollars ($3); *Class A-6, Black or Brown Bear tag, five dollars ($5);* which will entitle the holder to pursue, hunt, shoot, and kill the game animal or animals authorized by the license held and to possess the dead bodies of game animals of the state which are so authorized by the regulation of the commission.

Class B nonresident fishing license fee $15.

(5) **Class B license — Nonresident Fishing License.** Any person not a resident as defined in section 26-202.3, upon payment of the sum of fifteen dollars ($15) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a Class B license, which shall entitle the holder thereof to fish with hook and line as authorized by the rules and regulations of the commission.

Class B-1 nonresident game bird license fee $25.

(6) **Class B-1 License — Nonresident Game Bird License.** Any person not a resident as defined in section 26-202.3, but who is twelve (12) years of age or older,.

HeinOnline -- 1971 vol. I 634 1971

upon payment of the sum of twenty-five dollars ($25) to any agent of the fish and game commission authorized to issue fishing and hunting licenses shall be entitled to a Class B-1 license, which shall entitle the holder thereof to pursue, hunt, shoot, kill and possess game birds as authorized by the rules and regulations of the commission.

Class B-2 nonresident big game license fees.

(7) **Class B-2 License — Nonresident Big Game License.** Any person not a resident as defined in section 26-202.3, but who is twelve (12) years of age or older, upon the payment of the sum of one hundred twenty-five dollars ($125) for the license year from May 1, 1967 to April 30, 1968 and thereafter for subsequent license years upon payment of the sum of one hundred fifty dollars ($150) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a Class B-2 license which shall authorize the holder to pursue, hunt, shoot, and kill game animals in the area or areas designated in the license, as determined by the commission, and to possess the carcasses of same, and to pursue, hunt, shoot, kill and possess game birds, and to fish with hook and line as may hereinafter be authorized by the rules and regulations of the commission.

$150.

Class B-3 tourist fishing license fee $5 for 6 days.

(8) **Class B-3 license — Temporary Nonresident or Tourist Fishing License.** Any person not a resident as defined in section 26-202.3, upon payment of the sum of five dollars ($5) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a temporary nonresident fishing license, which shall authorize the holder to fish with hook and line as authorized by the rules and regulations of the fish and game commission for a period of six (6) days inclusive of the dates indicated on the license.

Class B-5 nonresident deer license fee $35.

(9) **Class B-5 License — Nonresident Deer License.** Any person not a resident as defined in section 26-202.3, but who is twelve (12) years of age or older, upon the payment of the sum of thirty-five dollars ($35) shall be entitled to a Class B-5 license which shall authorize the holder to pursue, hunt, shoot, and kill one (1) deer in the area or areas designated in the license, as determined by the commission, and to possess the carcass of same.

Class B-6 nonresident antelope license fee $35.

(10) **Class B-6 License — Nonresident Antelope License.** Any person not a resident as defined in section 26-202.3, but who is twelve (12) years of age or older,

HeinOnline -- 1971 vol. I 635 1971

upon the payment of the sum of thirty-five dollars ($35) shall be entitled to a Class B-6 license which shall authorize the holder to pursue, hunt, shoot, and kill one (1) antelope in the area designated in the license, as determined by the commission, and to possess the carcass of same.

Special license fees.

(11) **Special Licenses.** Any applicant who is a resident as defined by section 26-202.3, or any applicant who is the holder of a Class B-2 nonresident big game license may apply for a special license, which in the judgment of the fish and game commission, is to be issued and shall pay the following fees therefor:

Moose.

Moose, resident twenty-five dollars ($25), nonresident fifty dollars ($50);

Mountain goat.

Mountain Goat, resident fifteen dollars ($15), nonresident thirty dollars ($30);

Mountain sheep.

Mountain Sheep, resident twenty-five dollars ($25), nonresident fifty dollars ($50);

Bison.

Bison or Buffalo, resident twenty-five dollars ($25), nonresident one hundred dollars ($100);

Antelope.

Antelope, resident three dollars ($3), nonresident ten dollars ($10);

Bear.

Grizzly Bear, resident *five dollars ($5),* nonresident *grizzly, black or brown bear, thirty-five dollars ($35).*

Grizzly bear trophy license fee $25.

In the event a holder of a valid special grizzly bear license kills a grizzly bear, he must purchase a trophy license for a fee of twenty-five dollars ($25) within ten (10) days after date of kill. Such trophy license shall authorize the holder to possess and transport said trophy.

Limitation on issuance.

In the event that the number of valid applications for special licenses exceeds the number of special licenses which the fish and game commission desires to issue in any hunting district, then the number of special licenses issued to the holders of Class B-2 nonresident big game licenses shall not exceed ten per cent (10%) of the total issued.

Class C trapper's license fee $10.

(12) **Class C License — Trapper's License.** Any resident as defined in section 26-202.3, upon making application and paying the sum of ten dollars ($10) to the fish and game commission, shall be entitled to a trapper's

HeinOnline -- 1971 vol. I 636 1971

license, which shall authorize the holder thereof to trap fur-bearing animals, within the state of Montana at such times and in such manner as may be lawful so to do under the laws of the state and the regulations of the fish and game commission, and at such places as may be designated in said license.

Class C-1 landowner's trapping license fee $1.

(13) **Class C-1 License — Landowner's Trapping License.** Any owner or tenant, or member of the immediate family of said owner or tenant, upon making application to the fish and game commission, and upon payment of the sum of one dollar ($1) shall be entitled to a landowner's trapping license which shall entitle the holder thereof to trap any fur-bearing animal, except beaver, on land owned or leased by him, or his immediate family, at such times and in such manner as may be lawful so to do under the laws of the state and the regulations of the fish and game commission and at such places as may be designated in said licenses.

Resident pioneer license fee 15c.

(14) **Exception.** (a) A resident under the definition of section 26-202.3, who is sixty-five (65) years or older shall be entitled to fish and hunt game birds with a pioneer license issued by the state fish and game commission for a fee of fifteen cents ($.15). The form of such license shall be prescribed by the fish and game commission.

Residents of state institutions.

(b) Residents of all institutions under the jurisdiction of the state board of institutions, except the Montana state prison at Deer Lodge, will be entitled to fish without a license. Such residents shall carry a permit on a form prescribed by the commission and signed by the superintendent of the institution in lieu of a license.

Fishing permit.

Veteran patient's fishing license fee 15c.

(c) A veteran who is a patient residing at a hospital operated by the veterans administration, within or outside the state, may fish with a license issued by the head of the hospital on forms prescribed and furnished by the commission. The fee for such license shall be fifteen cents ($.15).

Revocation on conviction.

(d) If a person is convicted of a violation of the fish and game laws or regulations of Montana, the privilege conferred by this subsection shall be revoked for not less than six (6) months.

Residents under 15.

(e) Residents, as defined by section 26-202.3, under the age of fifteen (15) years may purchase Class A-1,

HeinOnline -- 1971 vol. I 637 1971

A-3, A-4, and A-5 licenses for one-half (½) of the fees prescribed in this section.

Commission may prescribe number.

(f) The commission, by rule or regulation, may prescribe the number of Class B-5 and B-6 licenses to be issued in each of the hunting districts designated by it.

Special antelope licenses.

(g) **Special antelope licenses.** In the event the number of valid applications for special antelope licenses for a hunting district exceeds the quota set by the commission for the district, such licenses shall be awarded by a drawing. Persons making valid application who did not receive an antelope license during the season immediately preceding the drawing shall be given first preference in such drawing for first, second and third choice hunting districts. The commission shall have the authority to promulgate such rules and regulations as are necessary to implement this subsection.

Application.

Preference.

Rules.

(15) Only one (1) license of any one (1) class, except Class B-3 and B-4 licenses, shall be issued to any one (1) person, provided, however, that the commission may prescribe rules and regulations for the issuance or sale of a replacement license of the same class in the event the original license is lost, stolen or destroyed upon payment of the sum of one dollar ($1).

Replacement license.

Sportsman's license fee $20.

(16) **Class AAA License — Sportsman's License.** Any resident, as defined by section 26-202.3, who is twelve (12) years of age or older, upon payment of the sum of twenty dollars ($20) shall be entitled to a sportsman's license which shall permit the holder to exercise all rights granted to holders of Class A, A-1, A-3, A-5 *and A-6* licenses. The commission shall furnish each holder of a sportsman's license an appropriate decal.''

Approved March 1, 1971

CHAPTER NO. 130

An Act to Amend Section 27-612, R.C.M., 1947, to Include Perishable Food Dealers.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 27-612, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 638 1971

"27-612. **Definition of terms.** As used in this act, unless the context clearly indicates otherwise: Definitions.

(1) 'Food' means any edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption. 'Food.'

(2) 'Food manufacturing establishing' means a commercial establishment, and all buildings or structures in connection with, used to manufacture or prepare food for sale or human consumption, but does not include milk producers' facilities, milk pasteurization facilities, milk product manufacturing plants, slaughterhouses or meat packing plants. 'Food manufacturing establishment.'

(3) 'Meat market' means a commercial establishment, and all buildings or structures in connection with, used to process, store, or display meat or meat products for sale to the public or for human consumption. 'Meat market.'

(4) 'Food service establishment' means any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, night club, industrial feeding establishment, catering kitchen, commissary, private organization routinely serving the public, or similar place where food or drink is prepared, served, or provided to the public with or without charge. The term does not include establishments, vendors, or vending machines which sell or serve only packaged nonperishable foods in their unbroken original containers, or a private organization serving food only to its members. 'Food service establishment.'

(5) 'Frozen food plant' means a place used to freeze, process, or store food including facilities used in conjunction with the frozen food plant and a place where individual compartments are offered to the public on a rental or other basis. 'Frozen food plant.'

(6) 'Person' means a person, partnership, corporation, association, co-operative group, or other entity engaged in operating, owning, or offering services of *an establishment as included in this section.* 'Person.'

(7) 'Establishment' means a food manufacturing establishment, meat market, food service establishment, 'Establishment.'

HeinOnline -- 1971 vol. I 639 1971

frozen food plant, commercial food processor *or perishable food dealer.*

'State board.' (8) 'State board' means the state board of health.

'Department.' (9) 'Department' means the state department of health.

'Executive officer.' (10) 'Executive officer' means the director of the state department of health.

'Perishable food dealer.' *(11) 'Perishable food dealer' means a person or commercial establishment which is in the business of purchasing and selling perishable food to the public."*

Approved March 1, 1971.

CHAPTER NO. 131

An Act to Provide for an Intoxication Test and Consent Thereto, for Persons Arrested for Driving While Under the Influence of Intoxicating Liquor, Providing for Suspension Upon Refusal of Operator to Submit to Test, Providing for an Appeal of License Suspension.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Chemical blood, breath, or urine tests.** (a) Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent, subject to the provisions of section 32-2142, R.C.M., 1947, to a chemical test of his blood, breath, or urine for the purpose of determining the alcoholic content of his blood if arrested by a peace officer for driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor. The test shall be administered at the direction of a peace officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor. The arresting officer may designate which one of the aforesaid tests shall be administered.

Motor vehicle operator—consent to intoxication test.

Arresting officer may designate test.

Consent not withdrawn. (b) Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph (a) of this section.

HeinOnline -- 1971 vol. I 640 1971

(c) If a person under arrest refuses upon the request of a peace officer to submit to a chemical test designated by the arresting officer as provided in paragraph (a) of this section, none shall be given, but the Montana highway patrol board, upon the receipt of a sworn report of the peace officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the peace officer, shall suspend the license or driving privilege of such person on the highways of this state for a period of sixty (60) days. Like refusal by a nonresident shall be subject to suspension by the board in like manner. All such suspensions are subject to review as hereinafter provided.

Effect of refusal.

Sworn report.

Suspension for 60 days.

Section 2. **Right of appeal to court.** (a) Any person whose license or privilege to drive has been suspended, as hereinbefore authorized, the board shall immediately notify such person in writing and such person shall have the right to file a petition within thirty (30) days thereafter for a hearing in the matter in the district court in the county wherein such person shall reside and such court is hereby vested with jurisdiction and it shall be its duty to set the matter for hearing upon thirty (30) days written notice to the county attorney of the county wherein the appeal is filed and such county attorney shall represent the state, and thereupon the court shall take testimony and examine into the facts of the case, except that the issues shall be limited to whether a peace officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, whether the person was placed under arrest and whether such person refused to submit to the test. The court shall thereupon determine whether the petitioner is entitled to a license or is subject to suspension as heretofore provided.

Notice of suspension.

Petition to district court.

Hearing.

Limitations on issues.

Determination by court order.

(b) Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of intoxi-

On trial or proceeding.

HeinOnline -- 1971 vol. I 641 1971

Admissible evidence.

cating liquor, evidence of the amount of alcohol in the person's blood at the time of the act alleged as shown by a chemical analysis of his blood, breath, or urine is admissible.

Proof of refusal to submit to test.

(c) If the person under arrest refused to submit to the test as herein above provided, proof of refusal shall be admissible in any criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor.

Other evidence.

(d) The provisions of this act do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor.

Physician or registered nurse may take blood sample.

Section 3. **Administration of tests.** (a) Only a physician or registered nurse acting at the request of a peace officer may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of breath or urine specimens.

Person tested may select physician or registered nurse.

(b) The person tested may, at his own expense, have a physician or registered nurse, of his own choosing administer a test, in addition to any administered at the direction of a peace officer, for the purpose of determining the amount of alcohol in his blood at the time alleged as shown by chemical analysis of his blood, breath or urine. The failure or inability to obtain an additional test by a person shall not preclude the admissibility in evidence of the test taken at the direction of a peace officer.

Full information.

(c) Upon the request of the person tested full information concerning the test taken at the direction of the peace officer shall be made available to him or his attorney.

No liability.

(d) No physician or registered nurse shall incur any civil or criminal liability as a result of the proper administering of a blood test when requested in writing by a peace officer to administer such a test.

Privacy.

(e) If the test given under the preceding section is a chemical test of urine, the person tested shall be given such privacy in the taking of the urine specimen as will

HeinOnline -- 1971 vol. I 642 1971

insure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved.

(f) The Montana highway patrol board in cooperation with the state board of health or any other appropriate agency, shall adopt uniform standards for the giving of blood alcohol tests and may require certification of training to administer such tests as deemed necessary. Uniform standards.

Section 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable. Severability clause.

Section 5. All acts or parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 1, 1971.

CHAPTER NO. 132

An Act to Amend Section 32-2142, R.C.M., 1947, Reducing the Amount of Alcohol Necessary to Presume a Person Under the Influence of Intoxicating Liquor and Defining the Basis for Determining the Same; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1 Section 32-2142, R.C.M., 1947, is amended to read as follows: Amending clause.

"32-2142. **Persons under the influence of intoxicating liquor or of drugs.** (a) It is unlawful and punishable as provided in paragraph (d) of this section for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of any motor vehicle upon the highways of this state. Unlawful to drive under influence of liquor.

(b) In any criminal prosecution for a violation of paragraph (a) of this section relating to driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance, shall give rise to the following presumptions: Presumptions in criminal prosecutions.

HeinOnline -- 1971 vol. I 643 1971

0.05 percent or less.

1. If there was at that time 0.05 per cent or less by weight of alcohol in the defendant's blood it shall be presumed that the defendant was not under the influence of intoxicating liquor:

Over 0.05 percent but less than 0.10 percent

2. If there was at that time in excess of 0.05 per cent but less than *0.10* per cent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant:

0.10 per cent or more.

3. If there was at that time *0.10* per cent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor:

Determination of percentage of alcohol.

4. Per cent by weight of alcohol in the blood shall be based upon *grams* of alcohol per one hundred (100) *cubic centimeters* of blood:

Other evidence.

5. The foregoing provisions of paragraph (b) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor.

Unlawful to drive under influence of drugs.

(c) It is unlawful and punishable as provided in paragraph (d) of this section for any person who is an habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle to drive a motor vehicle within this state. The fact that any person charged with a violation of this paragraph is or has been entitled to use such a drug under the laws of this state shall not constitute a defense against any charge of violating this paragraph.

Penalties on conviction.

(d) Every person who is convicted of a violation of this section shall be punished by imprisonment in the county or city jail for not more than six (6) months or by a fine of not less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00) or by both such fine and imprisonment. On a second conviction he shall be punished by imprisonment in the county or city jail for not less than ten (10) days nor more than six (6) months, to which may be added, at the discretion of

HeinOnline -- 1971 vol. I 644 1971

the court a fine of not less than three hundred dollars ($300.00) nor more than five hundred dollars ($500.00). On the third or subsequent conviction he shall be punished by imprisonment for a term of not less than thirty (30) days nor more than one (1) year, to which may be added at the discretion of the court a fine of not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000.00).

Municipal ordinances.

(e) Each and every municipality in this state is hereby given authority to enact the foregoing paragraphs (a), (b), (c) and (d) of this section, with the word "state" in the first sentence of paragraphs (a) and (c) changed in each instance to read "municipality", as an ordinance, and is hereby given jurisdiction of the enforcement of said ordinance, and of the imposition of the fines and penalties therein provided.

Revocation of license.

(f) The board shall forthwith revoke the license or permit to drive and operating privilege and any nonresident operating privilege of any person upon receiving a record of such person's conviction or forfeiture of bail not vacated under this section."

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1971

CHAPTER NO. 133

An Act Amending Sections 26-1502, 26-1505, and 26-1507, R.C.M., 1947, and Adding New Sections Establishing the Policy of the State of Montana on Protection of Fishing Streams, Providing for Submission of Plans for Construction and Hydraulic Projects Affecting Such Streams to the Montana Fish and Game Commission, for Review of Such Plans and Exempting Certain Projects and Parties.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-1502, R.C.M., 1947, is amended to read as follows:

"26-1502. **Notice of projects to be given fish and game**

HeinOnline -- 1971 vol. I 645 1971

Duty to notify fish and game commission of plans affecting streams.

commission — contents of notice. An agency of state government, county, municipality, or other subdivision of the state of Montana, hereafter called applicant, shall not construct, modify, operate, maintain, or fail to maintain, any construction project or hydraulic project which may or will obstruct, damage, diminish, destroy, change, modify, or vary the natural existing shape and form of any stream or its banks or tributaries by any type or form of construction without first causing notice of such planned construction to be served upon the Montana fish and game commission, on forms furnished by the fish and game commission as soon as preliminary plans are completed, but not less than sixty (60) days prior to commencement of final plans for construction. Such notice shall include detailed plans and specifications of so much of said project as may or will affect in any manner specified above any such stream."

60 days.

Amending clause.

Section 2. Section 26-1505, R.C.M., 1947, is amended to read as follows:

"26-1505. **Refusal by applicant to modify plans — arbitration of disputes.** (1) If the fish and game commission notifies the applicant that the construction will adversely affect fish or game habitat, the applicant, within fifteen (15) days after receiving the recommendations and alternatives of the fish and game commission, shall notify the fish and game commission if it refuses to modify its plans in accordance with such recommendations or alternatives. In the event of such refusal, the disagreement shall be arbitrated as provided in subsection (2) of this section.

Notice of adverse effect on fish or game habitat.

15 days.

Arbitration.

Determination.

10 days.

Notice to applicant.

Notice to district judges.

Judges shall appoint arbitration committee.

Hearing.

(2) Upon receipt of such notice of refusal, the fish and game commission shall determine if it wants the disagreement arbitrated. Within ten (10) days after an affirmative determination, and after notice to the *applicant,* the fish and game commission shall notify, in writing, all district judges of the judicial district or districts in which the project is located that an arbitration board is needed. Within five (5) days of receipt of notification, such judges shall appoint three (3) people from the county or counties in which the project is located to an arbitration committee. Within ten (10) days after the committee is appointed, it shall meet, hear testimony from all the *parties* concerned, and issue a decision signed by

HeinOnline -- 1971 vol. I 646 1971

at least two (2) members of the committee. The decision shall be binding on all parties concerned. The actual and necessary expenses of the arbitrators shall be divided equally among the agencies involved."

Decision.
Expenses.

Section 3. Section 26-1507, R.C.M., 1947, is amended to read as follows:

Amending clause.

"26-1507. **Irrigation projects exempt.** This act shall not apply to any irrigation district project or any other irrigation *system.*"

Irrigation systems exempt.

Section 4. There is a new section in title 26, chapter 15 which reads as follows:

The Montana state fish and game department shall observe and report to the Montana state fish and game commission concerning acts and omissions on the part of the government of the United States and its agencies within the state of Montana which do, will or might affect adversely the fish and wildlife resources, including but not limited to the fishing streams within the state, and upon receiving such reports, the said commission shall without delay send formal notification in writing, by certified mail, to the appropriate federal agency or agencies involved, setting forth in detail the appropriate objections of the state of Montana to the acts and omissions aforesaid. Said commission shall keep complete files and records, available for public inspection, of all matters and things done, and all communications and correspondence sent and received, pursuant to this section.

Report on federal agencies affecting ecology.
Notice of objections.
Files and records.

Approved March 1, 1971

CHAPTER NO. 134

An Act to Require Each State Agency to Submit an Annual Written Report to the Governor Rather than a Biennial Report; Amending Section 82-4002, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 82-4002, R.C.M., 1947, is amended to read as follows:

Amending clause.

"82-4002. *Annual* **reports by state agencies—contents—**

HeinOnline -- 1971 vol. I 647 1971

public inspection—governor's duties—pamphlets—copies.

September 1.
Annual reports to governor.

(1) Before September 1 of each year, each state agency shall submit a written report to the governor of its activities during the immediately preceding fiscal *year.*

Information.

(2) Each report shall contain information prescribed by the governor describing fully the activities of the state agency. Reports shall contain recommendations from each state agency for improvements in programs administered by it.

Filing.

(3) State agency reports shall be filed in the governor's office and are open for inspection by any person.

Duties of governor.

(4) From the reports submitted to him the governor shall:

(a) delete extraneous or duplicated data;

(b) standardize the presentation of data to the extent feasible and desirable;

(c) request pertinent additional information he wishes included in the report;

Report to legislative assembly.

(d) prepare a report for submission to the legislative assembly before the fifth legislative day of any regular session.

Publication.

(5) Except as provided in subsection (6) of this section, the governor may authorize the publication of a state agency report in pamphlet form. The report in pamphlet form shall be published and distributed by the state agency responsible for reporting.

Elective official may publish annual report.

(6) An elective official may publish *an annual* report in pamphlet form, in addition to the report to the governor required in subsection (1) of this section, without permission from the governor.

Distribution of copies.

(7) Copies of each report published as provided in subsections (4), (5) and (6) of this section shall be distributed as follows:

(a) two (2) copies to the secretary of state;

(b) two (2) copies to the legislative council;

(c) two (2) copies to the legislative auditor;

(d) one (1) copy to each member of the legislative assembly;

HeinOnline -- 1971 vol. I 648 1971

(e) two (2) copies to the director of the budget;

(f) two (2) copies to the librarian of the state historical society;

(g) at least four (4) copies to the state publications distribution center of the state library and additional copies as requested by the state library;

(h) additional distribution in the discretion of the governor or state agency."

Approved March 1, 1971

CHAPTER NO. 135

An Act to Amend Section 69-4610, R.C.M., 1947; Providing that the Confidentiality of All Information Concerning Public Venereal Disease Work be Protected, Preserved and Remain Inviolate; Providing a Definition of the Word "Information" in Said Section; and Providing that Such Information is Privileged and Production Thereof May Not be Required in Legal Proceedings.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 69-4610 is hereby amended to read as follows: Amending clause.

"69-4610. **Information concerning infected persons — release.** Information concerning persons infected or reasonably suspected to be infected with venereal disease may only be released to: Limitations on release of information on venereal disease.

(1) personnel of the state department of health; or

(2) a physician who has written consent of the person whose record is requested.

For the purposes of this section the term 'information' includes all knowledge or intelligence, and all communications of all knowledge or intelligence, oral or written, or in record form, and also includes, but is not limited to, information concerning the location or nature of the activities or work of all local, state, or federal employees, or officers, engaged in venereal disease eradication work, and such personnel are privileged and shall not be re- "Information" defined.

HeinOnline -- 1971 vol. I 649 1971

quired to testify concerning anything within their knowledge or work activities having any relation to venereal disease work. The purpose of this section is to protect and preserve the principle of confidentiality in venereal disease work by public personnel, local, state, and federal, such confidentiality being all important to the success of all venereal disease eradication work and endeavor, and to require that the principle of confidentiality in such work remain inviolate."

Purpose to preserve confidentiality.

Approved March 1, 1971

CHAPTER NO. 136

An Act to Revise the Refuse Disposal Districting Law by Amending the Service Fee Section; Amending the Section Relating to Duties and Powers of the Board of Directors; Adding a Section Allowing for Creation of Joint Refuse Disposal Districts; Adding a Section Defining Duty of County Attorney; Amending Sections 69-6002, 69-6007, and 69-6010, R.C.M., 1947, and Repealing Section 16-1031, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-6002, R.C.M., 1947, is amended to read as follows:

Definitions.

"69-6002. **Definitions.** As used in this act unless the context indicates otherwise:

"Commissioners."

"Commissioners" means the board of county commissioners.

"Family residential unit."

"Family residential unit" means the residence of a single family.

"Refuse."

"Refuse" means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, street cleanings, dead animals, yard clippings, and solid market and solid industrial wastes.

"Refuse disposal district."

"Refuse disposal district" means an area established with definite boundaries for the purpose of collecting and disposing of all refuse created in said district.

"Board."

"Board" means board of directors as provided for in section 69-6009, R.C.M., 1947, and section 4 of this act."

HeinOnline -- 1971 vol. I 650 1971

Section 2. Section 69-6007, R.C.M., 1947, is amended to read as follows: Amending clause.

"69-6007. **Service fees — maintenance assessments — disposal fee.** To defray the cost of maintenance and operation of said refuse disposal district, the *board,* shall establish a fee for service *with approval of the county commissioners. This fee shall be assessed to all units in the district that are receiving a service for the purpose of maintenance and operation of said district. The fees shall be based upon a family residential unit, and* fees for commercial and industrial accounts shall be based on the comparison with a typical residential unit as to volume and type of waste produced. *In* no case shall the fee for disposal service exceed one half (½) the total fee for both collection and disposal services. *The month the service begins the county assessor shall place the amount of this fee on the tax notices to be collected with the tax. If a property owner fails to pay this fee, it shall become a lien upon the property. All fees and other monies received by the district shall be placed in a separate fund with the county treasurer of such county and shall be used solely for the purpose for which said refuse disposal district was created. Warrants upon such funds shall be drawn by the board of county commissioners upon presentation of claims approved by the board. Fees and other monies collected by joint county refuse disposal districts may be administered by one (1) county treasurer's office upon mutual agreement by the county commissioners of any joint refuse disposal district."*

Service fees. Approval. Assessment. Computation. Limitation. Duty of assessor. Lien. Deposit of monies. Warrants. Joint district monies.

Section 3. Section 69-6010, R.C.M., 1947, is amended to read as follows: Amending clause.

"69-6010. **Powers** *and duties* **of board.** The board *of every* refuse disposal district *established and organized under and by virtue of this act shall have the powers and duties with the approval of the county commissioners of all counties involved:* Powers and duties. Approval.

(1) To develop and administer a program for the collection and/or disposal of refuse within the district. Programs.

(2) To employ such suitable and competent assistants and employees as may be necessary and provide for their compensation. Employment.

(3) To purchase, rent or execute leasing agreements for such equipment and material as they may determine to Equipment.

HeinOnline -- 1971 vol. I 651 1971

be necessary for carrying on an effective refuse collection and/or disposal program.

Cooperation.

(4) To co-operate with any corporation, association, individual or group of individuals, including any agency of the federal, or state, *or local* government, in order to carry *out* effective *programs.*

Gifts.

(5) To receive gifts, grants, or donations for the purpose of advancing the program; *to acquire by gift, deed, purchase or condemnation land necessary for refuse disposal purposes.*

Rules.

(6) To enforce all state or local board of health rules and regulations pertaining to the storage, collection, and disposal of refuse.

Appropriations.

(7) To apply for and receive from the federal government *or the state government* on behalf of said refuse disposal district any moneys that may be appropriated by *federal or state legislative bodies* for aiding such programs.

Borrowing funds.

(8) To borrow from *any loaning agency* any funds available for assistance in planning or financing a refuse disposal district and repay the same with the moneys received from the *fees levied* provided for in this act.

Power to implement programs.

(9) The board shall have the power to implement their proposed program, a section at a time. In the event that a program is implemented a section at a time, the fees may be levied only against that part of the district that is receiving the service. As the program is expanded throughout the district, that part of the district will start to pay the fee for service."

Joint refuse disposal districts defined.

Section 4. **Joint districts.** Joint refuse disposal districts are districts which encompass two (2) or more counties or parts thereof. A joint refuse disposal district

Creation.

may be created in the following manner: The commissioners of each county affected will create the district following the procedure as prescribed under sections 69-6003, 69-6004, 69-6005, and 69-6006, R.C.M., 1947. The

Joint board composition.

commissioners shall appoint a joint board of directors composed of at least five (5) members, each of whom shall be property owners in the said district. The board of directors for a joint district will consist of one (1) commissioner from each county involved, one (1) member from each of the incorporated cities or towns that are included in the district, and one (1) member from each

HeinOnline -- 1971 vol. I 652 1971

of the county or city-county boards of health. The rest of the joint board of directors shall consist of interested citizens distributed equally throughout the district, and the appointments shall be acceptable to all groups of county commissioners.

Section 5. **Duty of county attorney.** The county attorney shall be the legal advisor of the refuse disposal districts and boards within the county of his jurisdiction and shall prosecute and defend all suits to which the districts may be a party. County attorney is legal advisor.

Section 6. Section 16-1031, R.C.M., 1947, is repealed. Repealing clause.

Approved March 1, 1971

CHAPTER NO. 137

An Act to Amend Section 89-1811, R.C.M., 1947, to Authorize the County Treasurer to Pay to an Irrigation District Certain Funds Collected on Behalf of the District for Reserve Fund Purposes and for the United States Contract Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 89-1811, R.C.M., 1947, is amended to read as follows: Amending clause.

"89-1811. **County treasurer as custodian of district funds.** The county treasurer of the county wherein the office of an irrigation district is located shall be the custodian of all funds belonging to the district, and he shall pay out such funds upon the order of the board of commissioners, except as to payments on bonds and interest, for which no order shall be necessary. *Where any portion of the funds belonging to a district have been collected for the purpose of establishing a reserve fund, the county treasurer shall pay such portion to the district on order of the district's board of commissioners, who shall have authority to invest the same in state or federal bonds or in savings certificates of institutions insured by the federal deposit insurance corporation. Where monies of a district in the United States contract fund established pursuant to section 89-1809 are in excess of those needed to pay a district's next succeeding annual contract obligation or obligations to the United States, such excess,* County treasurer—custodian of irrigation district funds. Reserve fund. Investments. Excess monies.

HeinOnline -- 1971 vol. I 653 1971

Order. Consent. Payment to district. Seal.

or any part thereof, may, upon order of the district's board of commissioners, and with the consent of the United States officer administering the contract for which the contract fund has been established, be paid to the district for use in meeting other obligations of the district. Such orders *of the board of commissioners* shall be signed by the president and secretary of the board, and shall bear the official seal of the district."

Approved March 1, 1971

CHAPTER NO. 138

An Act to Provide for the Issuance by Licensed Motor Vehicle Dealers of Stickers to be Affixed to the Rear Window of New and Used Vehicles Purchased from Such Dealers, to Remain Thereon During the Ten Day Grace Period for Making Application for Registration of Such Vehicle; Providing a Nonregistration Penalty; Requiring that in Cases of Sales of Used Motor Vehicles to Persons Other than Licensed Dealers, the Dealer Forward to the County Treasurer, Either Personally or by First Class Mail, Within Three Days Following Delivery of the Vehicle, the Certificate of Ownership and Certificate of Registration with an Application for Registration Executed by the New Owner, and a Copy of the Sticker Affixed to Said Vehicle by the Dealer; Providing that in Such Cases and Upon Compliance by the Dealer with Such Requirements, Title to Said Motor Vehicle Shall be Deemed to Have Passed to the Purchaser as of the Date of Delivery of Said Vehicle; Amending Sections 53-108, 53-109, 53-146, and 53-147, Revised Codes of Montana, 1947; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 53-108, of the Revised Codes of Montana, 1947, is hereby amended to read as follows:

Annual renewal of vehicle registration.

"53-108. **Renewal of registration.** Every vehicle registration under this act shall expire on December thirty-first of each year and shall be renewed annually upon application and payment of license fees, as provided in sections 53-114 and 53-122, such renewal to take effect

HeinOnline -- 1971 vol. I 654 1971

on the first day of January of each year. The certificate of registration issued hereunder shall be valid during the registration year only for which issued, and the certificates of ownership shall remain valid until canceled by the registrar of motor vehicles upon a transfer of any interest shown therein and need not be renewed annually. Upon annual renewal, whenever the legal owner of the vehicle is other than the registered owner, the registrar of motor vehicles shall immediately notify such legal owner by mail of the registration number assigned to such vehicle for the ensuing year.

Validity.

Notice.

The owner of a vehicle registered under the provisions of this act shall be entitled to operate such vehicle between January first and February fifteenth without displaying the registration certificate of the current year, on condition that such owner shall, during said period display upon such vehicle the number plates or plate assigned thereto for the previous year.

Right to operate—February 15.

Section 2. Section 53-109, of the Revised Codes of Montana, 1947, is hereby amended to read as follows:

Amending clause.

"53-109. **Transfer of title or interest.** (a) Upon a transfer of any title or interest of an owner or owner in or to a motor vehicle registered under the provisions of this act as hereinbefore required, the person or persons whose title or interest is to be transferred shall write their signatures with pen and ink upon the certificate of ownership issued for such vehicle, in the appropriate space provided upon the reverse side of such certificate, and such signature shall be acknowledged before a notary public.

Transfer of title.

Signature.

Acknowledgement.

(b) Within ten (10) days thereafter, the transferee shall forward both the certificate of ownership so endorsed and the certificate of registration, together with the information required under section 53-107, to the *county treasurer,* who shall *forward the same to the registrar* and no certificate of ownership and certificate of registration shall be issued by the registrar of motor vehicles until the outstanding certificates are surrendered to that office or their loss established to his reasonable satisfaction. *Failure to make such application within the time provided herein shall subject the transferee to a penalty of ten dollars ($10) plus one dollar ($1) for each additional day in which said vehicle remains unregistered, not*

Within 10 days—forward to county treasurer.

To registrar.

Penalties—failure to make application.

HeinOnline -- 1971 vol. I 655 1971

to exceed twenty-five dollars ($25), said penalty to be collected by the county treasurer at the time of registration, and in addition to the fees otherwise provided by law.

Transfer by operation of law.

(c) In the event of a transfer by operation of law of any title or interest of an owner of the legal title or owner in and to a motor vehicle as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in the performance of the terms of a lease or executory sales contract, or otherwise than by voluntary act of the person whose title or interest is so transferred, the executor, administrator, receiver, trustee, sheriff or other representative or successor in interest of the person whose title or interest is so transferred shall forward to the registrar of motor vehicles an application for registration in the form required for an original application for registration, together with a verified or certified statement of the transfer of such title or interest which statement shall set forth the reason for such involuntary transfer, the title or interest so transferred, the name or names of the person or persons to whom such title or interest is to be transferred, the process of procedure effecting such transfer and such other information as may be requested by the registrar and with such statement shall be furnished such evidence and instruments as may otherwise be required by law to effect a transfer of legal or equitable title to or an interest in chattels as may be required in such cases, and in the event the registrar shall be satisfied that such transfer is regular and that all formalities as required by law have been complied with, he shall cause to be sent to the owner, conditional sales vendors, lessors, mortgagees and other lienors, as shown by his records notice of such intended transfer and thereafter, but not less than five (5) days thereafter, shall register such motor vehicle and shall issue a new certificate of ownership and certificate of registration to the person or persons entitled thereto. The notice herein required shall be deemed complied with by deposit in the post office in Deer Lodge, Montana, such notice postage prepaid, addressed to such person or persons at the respective addresses shown on his records.

Procedure.

Application.

Statement.

Evidence.

Determination by registrar.

Notice of intended transfer.

New certificates.

Out-of-state title—procedure.

When the vehicle title that is involuntarily transferred is not registered in this state the procedure set forth above must be followed in applying for a new certificate of ownership and certificate of registration, but the registrar

HeinOnline -- 1971 vol. I 656 1971

need not send notice of intended transfer and shall issue a new certificate of ownership and a new certificate of registration to the person entitled thereto.

On death of owner.

In the event of the death of an owner of one or more motor vehicles and/or trailer, and/or semitrailer, and/or trailer-house registered hereunder and not exceeding the value of four thousand dollars ($4,000), without leaving other property necessitating the procuring of letters of administration or letters testamentary, then the surviving husband or wife, or other heir, unless such property is by will otherwise bequeathed, may secure transfer of the certificate of ownership and the certificate of registration of the deceased, in and to such motor vehicle in the name of the surviving husband or wife or other heir, as above mentioned, upon filing with the registrar an affidavit of such person setting forth the fact of survivorship and the name and address of any other heirs and such other facts as are hereby made necessary to entitle the affiant to a transfer and thereupon the registrar is authorized to make such transfer of the certificate of ownership and certificate of registration, subject to all contracts, leases, mortgages, or other liens os shown by his records.

Vehicles not exceeding $4,000 in value—no other property.

Transfer.

Procedure.

Nothing in the foregoing subdivision of this section shall prevent any conditional sales vendor, mortgagee, or other lienor from assigning his interest or title in or to a motor vehicle registered under the provisions of this act to any other person without the consent of and without effecting the interest of the holder of the certificate of ownership and certificate of registration. Upon any conditional sales vendor, mortgagee, or other lienor assigning his interest in any motor vehicle registered under this act a copy of such assignment must be filed with the registrar and record thereof made upon his records.

Assignment of interests not affected.

Copy.

(d) Every person who transfers any motor vehicle to a junk dealer for the purpose of scrapping said vehicle shall so notify the registrar and deliver the certificate of ownership and certificate of registration to the registrar for cancellation."

Transfer to junk dealer.

Notice to registrar.

Section 3. **"Used motor vehicles — transfer to and from dealers.** The provisions of subdivision (b) of section 53-109 shall not apply in the event of the transfer of a motor vehicle to a duly licensed automobile dealer intending to resell such vehicle and who operates the

Exception—transfer to dealer for resale.

HeinOnline -- 1971 vol. I 657 1971

same only for demonstration purposes. In such cases, the dealer shall not be required to make application for a new certificate of ownership or for registration during the period of his ownership of said vehicle, but upon his transfer of ownership thereof to a person other than a licensed motor vehicle dealer, the following acts shall be required of the dealer on or before the times herein set forth: (1) Prior to his delivery of the vehicle to the purchaser, the dealer shall issue and affix to the rear window of said vehicle a sticker in form to be prescribed by the registrar, and containing the name and address of the purchaser, date of sale, name and address of the dealer, and a description of the vehicle, including its serial number. There shall be imprinted upon said sticker in bold letters the following statement: "IT IS UNLAWFUL TO PLACE LICENSE PLATES UPON THIS VEHICLE UNTIL REGISTERED AT THE OFFICE OF THE COUNTY TREASURER." One copy of said sticker shall be delivered by the dealer to the county treasurer in the manner prescribed in subsection (2) hereof, and a copy shall be retained by the dealer for his file.

Procedure required on resale.

Sticker.

Distribution.

(2) Within three (3) days following the date of delivery of said vehicle, the dealer shall forward to the county treasurer of the county where the purchaser resides, the certificate of ownership and certificate of registration (if the same are then in his possession), with an application for registration executed by the new owner in accordance with the provisions of section 53-107, and a copy of the sticker affixed to said vehicle by the dealer, and the registrar, upon receipt of said documents from the county treasurer, together with the conditional sales contract or other lien, if any, shall issue a new certificate of ownership and certificate of registration together with a statement of any conditional sales contract, mortgage, or other lien as provided in said section 53-107. Transmission of said documents by the dealer to the county treasurer may be accomplished either by personal delivery or by first class mail, in which event they shall be deemed to have been delivered at the time of mailing.

Within 3 days—duty of dealer to forward application for reregistration.

Transmittal to county treasurer.

(3) If the dealer is unable to forward the certificate of ownership and/or certificate of registration within the time set forth in subsection (2) hereof, because the same are lost, are in the possession of third parties, or

Exceptions.

HeinOnline -- 1971 vol. I 658 1971

are in process of reissuance in this state or elsewhere, he shall comply in all other respects with the provisions of said subdivision (2) and shall forward the missing document or documents to the county treasurer, either personally or by first class mail, within three (3) days after their receipt.

Upon compliance by the dealer with the requirements set forth in this section, title to said motor vehicle shall be deemed to have passed to the purchaser as of the date of the delivery of said vehicle to him by the dealer, and the dealer shall have no further liability or responsibility with respect to the processing of registration." Title passes to purchaser.

Section 4. "**Applicability of sticker provisions to new car purchases.** The provisions of section 3, subsection (1), pertaining to the issuance of a sticker by the dealer, placement thereof upon the rear windshield of the vehicle prior to delivery, and transmission of a copy of said sticker to the county treasurer, either personally or by first class mail within ten (10) days following delivery of said vehicle, shall be applicable to sales of new motor vehicles as well as to sales of used motor vehicles." Sticker provisions apply to new car sales.

Section 5. "**Temporary windshield sticker.** Any purchaser of a motor vehicle who is unable to obtain license plates from the county treasurer at the time he makes application for registration or reregistration of said vehicle, because the certificate of ownership is lost, in the possession of third parties, or in the process of reissuance in this state or elsewhere, may, upon making affidavit to that effect upon a form prescribed by the registrar and upon the payment of a fee of two dollars ($2) to be collected by the county treasurer and remitted to the registrar, obtain from the county treasurer of the county in which said vehicle is subject to tax, a temporary windshield sticker of such size, color and design as the registrar may prescribe, to be validated by the county treasurer for a period of sixty (60) days from the date of issuance, and such purchaser, upon displaying such sticker on the lower right-hand corner of the windshield of such motor vehicle shall be entitled to operate such vehicle during the period for which such windshield sticker has been validated without displaying the registration certificate or number plates or plate for the current year. Provided, however, the county treasurer shall not sell, and no person shall purchase, Temporary sticker. Affidavit. Fee $2. Valid for 60 days. Limited to one.

HeinOnline -- 1971 vol. I 659 1971

more than one (1) sixty (60) day temporary windshield sticker for any vehicle, the ownership of which has not changed since the issuance of the previous sixty (60) day windshield sticker."

Amending clause.

Section 6. Section 53-146, of the Revised Codes of Montana, 1947, enacted as section 2, chapter 127, laws of 1969, is hereby amended to read as follows:

Application for transfer of license plates.

"53-146. **Transfer of license plates to another motor vehicle.** Should the transferor make application for the registration of another motor vehicle at any time during the remainder of the current registration year, he may file an application, in the office of the county treasurer

Form.

where the motor vehicle is taxable, upon a form to be prepared and furnished by the registrar of motor vehicles, accompanied by the original certificate of registration, for the transfer of the license plates. The *application for* transfer of the license plates from the motor vehicle for which originally issued to a motor vehicle acquired by the same person in whose name the original license plates were

Within 10 days.

issued shall be made within ten (10) days from date of acquiring the vehicle. The use of the license plates shall

Validity.

not be legalized until proper transfer of license plates has been made."

Amending clause.

Section 7. Section 53-147, of the Revised Codes of Montana, 1947, enacted section 3, chapter 127, laws of 1969, is hereby amended to read as follows:

New owner application.

"53-147. **New registration required for transferred vehicle.** *Except as otherwise provided herein, the* new owner of the transferred motor vehicle shall, before operating or driving the same upon the public highways of this state, make application and pay the registration fees and taxes as provided by section 53-114, as if the same was being registered for the first time in that registration year."

Purchaser has 10 days grace period.

Section 8. **Grace period — penalty.** Any purchaser of a new or used motor vehicle from a duly licensed motor vehicle dealer shall have the grace period of ten (10) days from the date of purchase to make application for registration and to obtain registration plates, and it shall not be a violation of this chapter or any other law for such purchaser to operate such vehicle upon the streets and highways of this state without a certificate or regis-

HeinOnline -- 1971 vol. I 660 1971

tration and registration plates during the said ten (10) day period; provided that at all times during said period the sticker issued by the dealer at the time of purchase shall remain affixed to said vehicle as provided in section 3. Failure to make such application within the time provided herein shall subject the purchaser to a penalty of ten dollars ($10), plus one dollar ($1) for each additional day in which said vehicle remains unregistered, not to exceed twenty-five dollars ($25), said penalty to be collected by the county treasurer at the time of registration, and in addition to the fees otherwise provided by law.

Sticker shall remain affixed.

Penalties.

Section 9. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 1, 1971

CHAPTER NO. 139

An Act to Make Montana Traffic Laws Applicable to Forest Development Roads Except as Additional or Conflicting Rules May Be Designated by the United States Forest Service for Portions Thereof Designated as Special Service Roads, and to Confer Law Enforcement Jurisdiction Upon the Montana Highway Patrol and Sheriffs of this State to Enforce the Traffic Laws.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act a "forest development road" is defined as a road located on national forest lands or on a right of way acquired by the United States and used for the protection, administration and utilization of the national forests and other lands administered by the United States forest service; and a "special service road" is defined as a forest development road or segment thereof, the right of way for which is controlled by the United States and which is not a part of the highway system of the state or of a county or other public road authority of this state, designated by the forest service, pursuant to the regulations of the secretary of the United States department of agriculture, as a special service road for the purpose of controlling and regulating its use to accomplish the purposes of the secretary of

"Forest development road" defined.

HeinOnline -- 1971 vol. I 661 1971

agriculture's regulations applicable to the administration of the forest development transport system.

Subject to traffic laws.

Section 2. Forest development roads in the state of Montana, whether or not they meet the definition of a public highway by the laws of this state, are subject to the traffic laws of this state and the Montana highway patrol and county sheriffs of this state shall have jurisdiction thereon to investigate accidents and enforce the Montana traffic laws.

Jurisdiction.

Conflicting traffic laws—no jurisdiction as to special service roads.

Section 3. When forest development roads, or segments thereof, are desginated as special service roads by the United States forest service and by such designation are subjected to traffic rules in addition to or in conflict with the Montana traffic laws, neither the additional nor conflicting traffic rules so prescribed by the forest service nor the Montana traffic law with which they conflict shall be within the jurisdiction of law enforcement officers of this state as to such special service road.

Approved March 1, 1971

CHAPTER NO. 140

An Act to Amend Section 92-709, R.C.M., 1947, to Provide Payment of Compensation for a "Healing Period" in Addition to that Allowed for Loss of a Specified Member of the Body.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-709, R.C.M., 1947, is hereby amended to read as follows:

"92-709. **Compensation in case of specified injuries.** In case of the following specified injuries, compensation *for temporary total disability shall be paid at the weekly rate providd in section 92-701, R.C.M., 1947, during the healing period, but in no event shall the healing period exceed twenty-six (26) weeks. In addition thereto but* in lieu of any other compensation provided by this act shall be as follows: *the compensation shall be paid at the weekly rate provided in section 92-703, R.C.M., 1947,* and shall be paid for the following periods:

Compensation temporary disability.

Healing period limited to 26 weeks.

Additional compensation for loss of mebers.

For loss of:

One arm at or near shoulder .....280 weeks

HeinOnline -- 1971 vol. I 662 1971

One arm at the elbow	240 weeks
One arm between wrist and elbow	220 weeks
One hand	200 weeks
One thumb and the metacarpal bone thereof	75 weeks
One thumb at the proximal joint	37 weeks
One thumb at the second distal joint	25 weeks
One first finger and the metacarpal bone thereof	40 weeks
One first finger at the proximal joint	30 weeks
One first finger at the second joint	22 weeks
One first finger at the distal joint	15 weeks
One second finger and the metacarpal bone thereof	37 weeks
One second finger at the proximal joint	20 weeks
One second finger at the second joint	15 weeks
One second finger at the distal joint	8 weeks
One third finger and the metacarpal bone thereof	25 weeks
One third finger at the proximal joint	15 weeks
One third finger at the second joint	10 weeks
One third finger at the distal joint	5 weeks
One fourth finger and the metacarpal bone thereof	15 weeks
One fourth finger at the proximal joint	11 weeks
One fourth finger at the second joint	8 weeks
One fourth finger at the distal joint	6 weeks
One leg at or near the hip joint as to preclude the use of an artificial limb	300 weeks
One leg at or above the knee where stump remains sufficient to permit the use of an artificial limb	200 weeks
One leg between knee and ankle	190 weeks
One foot at the ankle	180 weeks
One great toe with metatarsal bone thereof	37 weeks
One great toe at the proximal joint	18 weeks
One great toe at the second joint	12 weeks
One toe other than the great toe with the metatarsal bone thereof	16 weeks
One toe other than the great toe at the proximal joint	8 weeks
One toe other than the great toe at second or distal joint	5 weeks
One eye by enucleation	165 weeks
Total blindness of one eye	140 weeks

HeinOnline -- 1971 vol. I 663 1971

Total loss of hearing, one ear ..... 40 weeks
Total loss of hearing, both ears .....200 weeks

Other cases of permanent injury less than total.

In all other cases of permanent injury, less than total, not included in the above schedule, the compensation shall bear such relation to the periods stated in the above schedule as the disabilities bear to those produced by the injuries named in the schedule or to total disability (500 weeks).

Loss of vision.

Loss of vision: Where central visual acuity does not exceed 20/200 in the better eye with correcting lenses or the widest diameter of the visual field subtends an angle no greater than 20 degrees, the same as for loss of the eye.

Total loss of use.

Total loss of use: Indemnity benefits for permanent total loss of use of a member shall be the same as for loss of the member.

Partial loss.

Partial loss or partial loss of use: Indemnity benefits for permanent partial loss or loss of use of a member may be proportionate loss or loss of use of the member.

Loss of more than one member.

In any case in which there shall be a loss, or loss of use, of more than one member as set forth in this section, not amounting to permanent total disability, the award of indemnity benefits shall be for the loss, or loss of use thereof, which awards shall run consecutively, provided, however, that the total award of compensation in no case shall exceed five hundred (500) weeks.

Maximum 500 weeks.

Disfigurement.

Disfigurement: The board may award proper and equitable indemnity benefits for serious face, head, or neck disfigurement, not to exceed twenty-five hundred dollars ($2,500.00) in addition to any other indemnity benefits payable under this section.

Loss of two members in one accident.

Total disability.

Computation.

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two (2) thereof, in one (1) accident, in the absence of conclusive proof to the contrary shall constitute total disability, permanent in character. Provided, however, that the percentage of permanent disability caused by any single accident or injury shall be so computed as to cover the permanent disability caused by that particular injury without reference to any previous physical ailment or defect or to any injury previously suffered or any permanent disability caused thereby; provided, that no payment under this section shall be in lieu of the separate benefit of medical and hospital services."

Approved March 1, 1971

HeinOnline -- 1971 vol. I 664 1971

CHAPTER NO. 141

An Act to Amend Section 92-1004, R.C.M., 1947, to Raise the Maximum Bonding Requirement to One Hundred Thousand Dollars, and Providing for a Corporate Surety Bond, Approved by the Board, in Lieu of Deposit of Bonds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 92-1004, R.C.M., 1947, is amended to read as follows: Amending clause.

"92-1004. **Agreement to be contained in policies of insurance**—*deposit of bonds.* No such policy shall be issued unless it contains the agreement of the insurer that it will promptly pay to the person entitled to compensation all the installments of compensation or other payments in this act provided for, and that the obligation shall not be affected by any default of the insured after the injury, or by any default in the giving of any notice required by such policy or by this act or otherwise. Such agreement shall be construed to be a direct promise by the insured to the person entitled to compensation. Before issuance of any policy by an insurer as herein authorized, such insurer must deposit with the treasurer of the industrial accident board, bonds of the United States or the state of Montana, or of any school district, county, city or town in the state of Montana, *or a corporate surety bond made out to and approved by the board,* in an amount not less than five thousand dollars ($5,000.00) or more than *one hundred thousand dollars ($100,000),* as the industrial accident board may determine. If any insurer shall fail to discharge any liability after the amount thereof shall be determined by the board, and within the time limited by the board, it shall be the duty of the board to convert said bonds, or such part thereof as is necessary, into cash, and from the proceeds liquidate such liability; and thereafter said insurer must make an additional deposit to meet any deficiency caused thereby. It is intended hereby to give the industrial accident board the discretion in the matter of whether an insurer has failed to discharge any liability."

Mandatory agreement in policy to pay compensation.

Direct promise to person entitled.

Insurer must deposit bonds with treasurer of board.

$5,000 to $100,000.

On failure to discharge liability bonds shall be cashed.

Additional deposit.

Board given discretion.

Approved March 1, 1971

HeinOnline -- 1971 vol. I 665 1971

CHAPTER NO. 142

An Act to Amend Section 92-1005, R.C.M., 1947, to Raise the Minimum Assessment from Ten Dollars to Two Hundred Dollars.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-1005, R.C.M., 1947, is hereby amended to read as follows:

Policies deemed subject to act.

"92-1005. **Policies made subject to this act—assessment of insurers.** Every policy for the insurance of the compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of this act. No insurer shall enter into any such policy of insurance unless its forms shall have been approved by the board, and as otherwise provided by law.

July 1.

Annual assessment 3¼%.

Compensation plan No. 2.

Minimum $200.

Deposit.

Items of loss.

On or before the first day of July of each year, the board shall assess and each insurer shall pay to the board not to exceed three and one-fourths per cent (3¼%) of its gross annual direct premiums collected in Montana on policies of insurance insuring employers who elected to become bound by the compensation plan No. 2 during the previous calendar year, less return premiums. *No such assessment shall be less than two hundred dollars ($200).* The treasurer of the board shall pay the amounts so collected into the state treasury. Payments by such insurers under this section shall be considered as items of loss for rate-making purposes."

Approved March 1, 1971.

CHAPTER NO. 143

An Act to Amend Section 92-902, R.C.M., 1947, Raising the Assessment that the Board May Levy from Two-Hundredths of One Percent to Three-Hundredths of One Percent.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-902, R.C.M., 1947, is hereby amended to read as follows:

HeinOnline -- 1971 vol. I 666 1971

"92-902. **Proof of solvency of employer electing plan No. 1 to be filed.** Every such employer now or hereafter engaged in the state of Montana, in the industries, trades, works, occupations, or employments herein mentioned, and who shall have elected to be bound by such compensation plan No. 1, shall file such proof of his solvency within the time and in such form as may be prescribed by the rules or orders of the board.

Compensation Plan No. 1.

Employer's proof of solvency.

The board *may* levy an assessment in *an* amount not to exceed *three*-hundredths of one percent of the annual payroll of such employer in Montana, for the preceding fiscal year, which assessment shall be paid to the board by said employer at the time of filing of proof of solvency.

Annual assessment —three hundredths of one percent.

No assessment shall be in an amount less than two hundred dollars ($200).

Minimum $200.

If such employer had no payroll in Montana for the entire preceding fiscal year, the assessment shall be based on the estimated payroll for the year in which election is made.

Based on estimated payroll.

The treasurer of the board shall pay the amounts so collected into the state treasury."

Deposit.

Approved March 1, 1971.

CHAPTER NO. 144

An Act to Repeal Chapter 6, Title 41, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Chapter 6, title 41, R.C.M., 1947, is repealed.

Repealing clause.

Approved March 1, 1971.

CHAPTER NO. 145

An Act to Amend Section 92-208, R.C.M., 1947, to Empower the Board to Issue Rules and Regulations Covering, and in all Cases Require Board Approval of, Rejection of Coverage by Officers of Private Corporations.

HeinOnline -- 1971 vol. I 667 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-208, R.C.M., 1947, is amended to read as follows:

Employee bound by employer's plan.

"92-208. **Employees bound by act—election.** Every employee whose employer is bound by the provisions of this act shall become subject to and be bound by the provisions of that plan of compensation which shall have been adopted by his employer except, *that pursuant to such rules and regulations as the board shall from time to time promulgate, and subject in all cases to the approval of the board,* officers of private corporations may elect not to be bound as employees under the act by a written notice in the form provided by the board, served in the following manner:

Exceptions.

Officers of private corporations.

Notice.

Plan No. 1 delivery to board of directors.

1. If the employer has elected to be bound by the provisions of compensation plan No. 1, by delivering said notice to the board of directors of the employer.

Plan No. 2 delivery to board of directors or insurer.

2. If the employer has elected to be bound by the provisions of compensation plan No. 2, by delivering said notice to the board of directors of the employer or the insurer.

Plan No. 3 delivery to industrial accident board.

3. If the employer has elected to be bound or is bound by the provisions of compensation plan No. 3, by delivering said notice to the industrial accident board."

Approved March 1, 1971.

CHAPTER NO. 146

An Act to Amend Section 92-1121, R.C.M., 1947, to Delete the Provision that Salary and Wages Paid During Actual Vacation Periods Shall Not be Computed in Computing Payroll.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-1121, R.C.M., 1947, is amended to read as follows:

Computation of payroll in hazardous occupations.

"92-1121. **What included in computing compensation in hazardous employment.** In computing the payroll, the entire compensation received by every workman em-

HeinOnline -- 1971 vol. I 668 1971

ployed in the hazardous occupations enumerated in this act, shall be included, whether it be in the form of salary, wage, piece work, or otherwise, and whether payable in money, board or otherwise."

Approved March 1, 1971

CHAPTER NO. 147

An Act to Amend Sections 28-408, 28-410 and 28-412, R.C.M., 1947, Providing for Reduction or Management of Fire Hazards, Caused by Cutting Forest Products on Private Forest Lands, to be in Keeping With Modern and Progressive Forest Practices and More Effective Fire Control; Providing for an Increase Not to Exceed Two Dollars Per Thousand Feet Log Scale for Fire Hazard Reduction on Private Forest Lands; Providing for Discretion in the State Forester as to Whether a Cash Bond will be Required of the Owner or Operator when a Fire Hazard Reduction Agreement is Executed; and Repealing Sections 28-401 through 28-403.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 28-408, R.C.M., 1947, is amended to read as follows: Amending clause.

"28-408. **Supervision by state forester.** The state forester, under such rules as the state board of forestry may provide, shall supervise the reduction or management of any fire hazard to the property of others created by the cutting of any forest product on private land in the state of Montana. State forester shall supervise.

The reduction or management of fire hazards referred to in this act *shall be in keeping with modern and progressive forest practices and more effective fire control and* may include or be limited to the taking of protective measures to prevent injury or the destruction of forest resources without actual abatement of the hazard." Reduction or management of fire hazards.

Section 2. Section 28-410, R.C.M., 1947, is amended to read as follows: Amending clause.

"Section 28-410. **Contracts with owners of forest lands.** The state forester is hereby authorized and empowered to enter into agreements with the owners of any forest lands or any operator engaged in operations on Authority to enter agreements with owners of forest lands.

HeinOnline -- 1971 vol. I 669 1971

lands within the state of Montana whereby slash is created, and under said contract the state forester may assume all responsibility for the reduction or management of any fire hazard; any such contract shall provide the amount to be paid by the owner or operator to the state forester by reason of his agreement to assume the reduction or management, of such fire hazard. Said amount shall not exceed *two dollars ($2.00)* for each one thousand (1000) feet log scale, or the equivalent thereof if forest products other than logs are cut."

Payment of costs.

$2 per 1000 feet or equivalent.

Amending clause.

Section 3. Section 28-412, R.C.M., 1947, is amended to read as follows:

"Section 28-412. **Certificate of clearance.** Any owner or operator who has entered into a contract with the state forester for the reduction or management of any fire hazard and upon payment of the contract price in accordance with the terms of said contract and the full compliance with the terms of said contract by such owner or operator, shall be granted a certificate of clearance and be relieved of any and all further liability and responsibility for the removal or reduction of any such fire hazard; provided, however, *the state forester may require a cash bond, equivalent to the contract price, and conditioned upon the faithful performance of said contract, be deposited by the owner or operator with the state forester.*"

Certificate of clearance granted.

Deposit of performance bond.

Repealing clause.

Section 4. Sections 28-401 through 28-403, R.C.M., 1947, are repealed.

Approved March 1, 1971

CHAPTER NO. 148

An Act Authorizing the Board of Railroad Commissioners of the State of Montana to Grant Temporary Motor Carrier Authority in Cases of Immediate and Urgent Need; Prescribing the Maximum Periods Thereof; and Repealing Section 8-130 of the Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. To enable the provision of service for which there is an immediate and urgent need to a point

HeinOnline -- 1971 vol. I 670 1971

or points or within a territory having no carrier service capable of meeting such need, the board of railroad commissioners may, in its discretion, upon affidavits or such other evidence as it may deem sufficient, and without hearings or other proceedings, grant temporary authority for such service by a common carrier by motor vehicle or a contract carrier by motor vehicle, as the case may be. Such temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the board shall specify, but for not more than ninety (90) days. Temporary authority initially granted pursuant to the provisions hereof may be extended by the board without hearings or other proceedings, but in no case shall a grant of temporary authority, with extensions, exceed an aggregate of one hundred twenty (120) days. Neither the granting of temporary authority nor operation thereunder shall create any presumption that corresponding permanent authority will be granted thereafter. Transportation service rendered under such temporary authority shall be subject to all applicable provisions of the motor carrier act and to the rules, regulations and requirements of the board thereunder.

Board of railroad commissioners may grant temporary authority for carrier service.

Validity 90 days.

Extensions.

Aggregate 120 days.

Subject to motor carrier act.

Section 2. Section 8-130, R.C.M., 1947, is hereby repealed.

Repealing clause.

Approved March 1, 1971

CHAPTER NO. 149

An Act to Amend Sections 46-801, 46-802, 46-803 and 46-804, R.C.M., 1947, to Require Inspection of Livestock Before a Change of Ownership.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 46-801, R.C.M., 1947, is amended to read as follows:

Amending clause.

"46-801. **Inspection of livestock** *before a change of ownership to a feeder purchaser or* **before removal from county.** (1) Except as in this act otherwise provided, it shall be unlawful to remove or cause to be removed from any county in this state any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly, by means of any railroad car, motor vehicle, trailer, horse-drawn ve-

Unlawful to remove livestock from county or sell to feeder without brand inspection.

HeinOnline -- 1971 vol. I 671 1971

hicle, boat or in any manner whatsoever, *or to transfer ownership by sale or otherwise to a feeder purchaser,* unless such animal shall have been inspected for brands by a state stock inspector or deputy state stock inspector and certificate of such inspection shall have been issued in connection with and for the purpose of such transportation or removal as in this act provided. Such inspection must be made in daylight.

Unlawful to sell livestock to market without brand inspection.

(2) It shall be unlawful to sell or offer for sale at a livestock market any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly originating within any county in the state of Montana in which a livestock market is maintained, or transported under a market consignment permit until such animal has been inspected for marks and brands by a state stock inspector, as in this act provided.

Unlawful to remove livestock from market without brand inspection.

(3) It shall be unlawful to remove or cause to be removed any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly from the premises of any livestock market in this state unless such animal shall have been inspected for marks and brands by a state stock inspector and an inspection certificate for such animal shall have been issued in connection with and for the purpose of such removal from the premises of such livestock market, as in this act provided.

Person in charge of livestock must have certificate or permit in possession.

(4) The person in charge of any such cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly being removed from any county in this state, where inspection thereof is required by this act, *or where change of ownership to a feeder purchaser has occurred as in this act defined,* or when moved under a market consignment permit shall have in his possession the certificate of inspection or market consignment permit issued in connection therewith, and shall exhibit the same to any sheriff, deputy sheriff, constable, highway patrolman, state stock inspector or deputy state stock inspector at the request of either of them and the provisions of section 46-803 shall be extended to livestock transported *or sold to a feeder purchaser* under the above-mentioned permits.

Travel permit—horses.

(5) In case of saddle, work or show horse or horses being transported from county to county within the state by the owner thereof for his personal use or business and where there is no change of ownership, the inspection

HeinOnline -- 1971 vol. I 672 1971

certificate as required by this act, may be endorsed as to purpose and extent of transportation by the inspector issuing same in order to serve as a travel permit within the state for a period not to exceed one year for the horse or horses described thereon. Such permit becomes void upon any transfer of ownership or if such horse or horses are to be removed from the state. In such instances an inspection must be secured for removal and the endorsed certificate surrendered.

Travel permit—registered cattle.

In case of registered purebred cattle being transported from county to county within the state by the owner thereof for show purposes and where there is no change of ownership, the inspection certificate as required by this act, may be endorsed as to purpose and extent of transportation by the inspector issuing same in order to serve as a travel permit within the state for a period not to exceed one year for the cattle described thereon. Such permit becomes void upon any transfer of ownership or if such cattle are to be removed from the state. In such instances an inspection must be secured for removal and the endorsed certificate surrendered.

Exceptions.

(6) The provisions of section 1 of this act (this section) shall not apply.

Livestock in interstate commerce.

(a) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly being transported through the state in interstate commerce without leaving the custody of the carrier;

(b) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly transported by railroad consigned to and which, without leaving the custody of the carrier, does reach a market at which the livestock commission of the state of Montana regularly maintains a stock inspector, and for which animal a loading tally has been filed by the shipper with the carrier as provided in section 46-1008;

Market stock inspector.

Change of range.

(c) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly when driven on the hoof and not moved by means of any motor vehicle, trailer, horse-drawn vehicle, railroad car or boat, by the owner from one (1) county to the next adjoining county within the state of Montana on to land owned or controlled by the owner of livestock so moved for the purpose of pasturing, feeding or changing the range thereof;

HeinOnline -- 1971 vol. I 673 1971

Owner's premises.

(d) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly when driven on the hoof or moved by means of any motor vehicle, trailer, horse-drawn vehicle, railroad car or boat by the owner from one (1) county to the next adjoining county within the state of Montana on to land owned or controlled by the owner of livestock without leaving land owned or controlled by such owner when moved for the purpose of pasturing, feeding, or changing the range thereof;

Driven for shipment.

(e) to any animal or animals when driven on the hoof from one (1) county to an adjoining county within the state for the purpose of shipment by railroad or delivery to a licensed public market by any person who has been the owner of said animal or animals for a period of at least three (3) months;

Market consignment permit.

(f) to any such animal or animals from one (1) county to be consigned to, and which actually reach by means other than railroad a licensed livestock market located in another county of the state at which the livestock commission of the state of Montana regularly maintains a stock inspector, and for which a market consignment permit has been obtained in a manner provided by law;

Inspector.

Transportation permit.

(g) to any such animal or animals when hauled by truck or trailer from one county to an adjoining county within the state for the purpose of shipment by railroad at which shipping point the livestock commission of the state of Montana maintains a stock inspector or where a deputy state stock inspector is available, and for which a transportation permit has been obtained in the manner provided by law.

Inspector.

(7) Except as provided for in section [subsections] 6 (a) and 6 (b) of this act [section], nothing contained in this chapter shall authorize or permit any person to remove or cause to be removed any animal or animals from any county in this state to a location outside of the state of Montana on the hoof, or by any means or manner whatsoever, unless such animal or animals shall have been inspected for brands by a state stock inspector or deputy state stock inspector and certificate for such inspection shall have been issued in connection with and for the purpose of such transportation or removal as in this act provided.

Removal from state—inspection required.

HeinOnline -- 1971 vol. I 674 1971

(8) It shall be the duty and responsibility of any person in possession of livestock to secure such inspection of livestock as provided in this chapter before any livestock shall leave the state of Montana. Duty of person in possession.

(9) The following words and phrases, as used in this act shall have the following meaning, unless the context otherwise requires: Definitions.

(a) "Feedlot" means any confined feeding area or enclosure which is not normally used for raising crops within which livestock are fed for marketing purposes. "Feedlot."

(b) "Feeder purchaser" means any individual, partnership or corporation which confines or contracts to confine to a feedlot, livestock to be fed for marketing purposes." "Feeder purchaser."

Section 2. Section 46-802, R.C.M., 1947, is amended to read as follows: Amending clause.

"46-802. **Duties of state stock inspectors and deputy stock inspectors — Montana livestock commission authorized to make rules and regulations.** It shall be the duty of state stock inspectors and deputy state stock inspectors, upon the application of the owner of any such animal referred to in section 46-801, or the duly authorized agent of such owner, to inspect all such animals intended for *sale to a feeder purchaser* removal or shipment as in this act provided, and to issue his certificate of inspection therefor, if it shall appear with reasonable certainty that the applicant is the owner of such animal or has the lawful right to the possession thereof. Duty to inspect livestock. Issue certificate of inspection.

The inspection herein provided for shall include such examination of the animal and all marks and brands thereon as to identify the same. The certificate of inspection shall be made in triplicate and shall specify the date of inspection, the place of origin and place of destination of the shipment, the name and address of the owner of the animal or of the applicant for inspection, *and the purchaser or transferee, if applicable,* the class of the animal as specified in section 46-801, the marks and brands, if any, upon the animal, and such other information and upon such form of certificate as the livestock commission may from time to time require. One (1) copy of the certificate shall be retained by the inspector, one (1) copy thereof shall be furnished by the inspector to the owner Requirements. Distribution of copies.

HeinOnline -- 1971 vol. I 675 1971

or shipper of the animal, and one (1) shall be filed by the inspector with the secretary of the livestock commission at Helena, Montana, within five (5) days.

Determination of ownership.

If it shall appear with reasonable certainty that the applicant is the owner of such animals or has the lawful right to the possession thereof, the state stock inspectors or deputy state stock inspectors or any sheriff or deputy sheriff, upon application of an owner or his agent of any such animal or animals to be consigned and delivered directly to a licensed livestock market located in another county of the state, or delivered directly to a shipping point duly approved by the Montana livestock commission where a livestock inspector is available for inspection, in an adjoining county, shall issue to such person a separate market consignment permit or transportation permit for each owner when the owner, or owners, or their duly authorized agents sign such permit certifying the brands, description and destination of such animals. The market consignment permit or transportation permit shall be made in triplicate, shall specify the date and time issued, the place of origin and place of destination of the shipment, the name and address of the owner of the animal or animals and the name and address of the person actually transporting the animal or animals if different than the owner, the kind of animal or animals, the marks and brands, if any, upon the animal or animals, a description of the vehicle or vehicles to be used to transport such animal or animals to include the license number of such vehicle or vehicles and such other information and upon such form of permit as the livestock commission may from time to time require. Any such permit so issued shall be good for shipment within thirty-six (36) hours from date and time of issue; provided, however, that permits not used within this time limitation must be returned to the issuing officer to be canceled and to release permitee from performance. One copy of such permit shall be retained by the inspector or sheriff's office, one copy shall be filed by the inspector or sheriff's office with the secretary of the livestock commission at Helena, Montana within five (5) days of the date of issue, and one copy shall be furnished by the inspector or sheriff's office to the owner or shipper of the animal or animals which such copy of the permit shall accompany the shipment and be delivered to the state stock inspector at the livestock market or shipping point where the animal or animals are delivered.

Issue market consignment or transportation permit.

Requirements.

Form.

Valid for 36 hours.

Cancellation.

Distribution of copies.

HeinOnline -- 1971 vol. I 676 1971

The Montana livestock commission is hereby authorized to make such rules and regulations as shall be deemed necessary to carry out the provisions of this act.'' Rules.

Section 3. Section 46-803, R.C.M., 1947, is amended to read as follows: Amending clause.

"46-803. **Seizure of livestock, retention of livestock, sale, disposal of proceeds.** All state stock inspectors inspecting any livestock, either before or after shipment or removal from any county in this state, *or upon a change of ownership, to a feeder purchaser* shall, in addition to the powers granted them by law, possess the further authority to inspect and seize either at the point of *sale,* shipment or destination or en route any livestock, or proceeds thereof, which said inspector may have good reason to believe is stolen, or upon which brands have been altered or obliterated, or which does not conform to the description contained on the tally sheet furnished by the shipper thereof or to the description contained in any certificate of inspection issued before shipment or removal of such livestock. Authority to seize stolen stock.

Upon taking possession of any such livestock in the exercise of the authority granted by this act, the state stock inspector may retain same in his possession for not to exceed fifteen (15) days for the purpose of making further investigation relative to its ownership, or may either at once or at any time within said period of fifteen (15) days sell said livestock at any licensed livestock market, or in the open market, for the best available price and remit the proceeds, less the cost of keeping and sale, to the livestock commission together with a full description of the animal sold, giving marks and brand, if any, and a statement of the reason for the seizure and sale thereof. Said proceeds shall be deposited by the livestock commission with the state treasurer and credited to the agency fund, where it shall be subject to claim by the owner of the livestock in the same manner and for the same length of time as is provided by law for the making of claims for moneys arising from the sale of stray stock.'' Duties on taking possession. Within 15 days. Sale deposit of net proceeds.

Section 4. Section 46-804, R.C.M., 1947, is amended to read as follows: Amending clause.

"46-804. **Fees for inspection and livestock transportation permit.** (a) For the service of inspection herein provided for before removal from county, *or before change* Inspection and permit fees.

HeinOnline -- 1971 vol. I 677 1971

of ownership to a feeder purchaser, the inspector making such inspections shall receive twenty-five cents (25¢) per head for twelve (12) head or less, or three dollars ($3.00) for from twelve (12) head to thirty (30) head and shall receive ten cents (10¢) per head for each animal over thirty (30) head; for the issuance of a market consignment permit or transportation permit herein provided for before removal from county, the inspector, sheriff or deputy sheriff issuing such permits shall receive twenty-five (25¢) for each permit issued for twelve (12) head or less; fifty cents (50¢) for each permit for twelve (12) to thirty (30) head and one dollar ($1.00) for each permit issued for over thirty (30) head and shall receive in addition thereto his necessary actual expenses, to be paid by the owner thereof or the person for whom the inspection is made or permit issued. All such inspection and permit fees and expenses shall be collected by the inspector, sheriff or deputy sheriff making the same at the time of inspection or issuance of permit and all such fees and expenses collected by a deputy state stock inspector, sheriff or deputy sheriff shall be retained by him and all such fees and expenses collected by a state stock inspector shall be sent by him to the livestock commission for deposit in the state treasury to the credit of the earmarked revenue fund for the use of the livestock commission.

Expenses.

Disposition of monies.

(b) For the service of inspection herein provided for before any such animal is sold or offered for sale at any licensed public market, the state stock inspector making such inspection shall receive (1) twenty cents (20¢) per head for any such animal originating within the county in the state in which such market is maintained, or transported under a market consignment permit, and (2) ten cents (10¢) per head for any such animal previously inspected before removal from county as herein provided. All such fees to be paid by the owner thereof or by the person for whom the inspection is made. For inspecting any such animal before same is removed from the premises of such licensed public market the state stock inspector making such inspection shall receive ten cents (10¢) per head from the owner thereof or the person for whom the inspection is made. All such fees for inspection at such market shall be collected by the state stock inspector making the inspection at the time such inspection is made and shall be sent by him to the livestock commission for

Disposition of monies.

HeinOnline -- 1971 vol. I 678 1971

deposit in the state treasury to the credit of the earmarked revenue fund for the use of the livestock commission.

(c) A question or doubt having arisen as to the intention of the legislature and policy of the state concerning the disposition of inspection fees and expenses collected by the state stock inspectors of the state of Montana for the inspection of livestock, it is hereby declared to be the policy of this state and the intent of the said twenty-eighth legislative assembly of the state of Montana that all such inspection fees and expenses be paid to the livestock commission for deposit in the state treasury to the credit of the earmarked revenue fund for the use of the livestock commission, and that said state stock inspectors shall be paid for their services and receive for their expenses only such sums as shall be agreed upon by the livestock commission of the state of Montana and fixed and determined by the state board of examiners."

Policy and intent regarding fees.

Approved March 1, 1971

CHAPTER NO. 150

An Act Amending Sections 60-131.1, 60-131.2, 60-131.3, 60-131.6 and 60-131.9, R.C.M., 1947; to Extend the Provisions of Sections 60-131.1 through 60-131.13, R.C.M., 1947; to Include Unitization of Pools or Parts Thereof in a Field for Primary Recovery of Gas; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 60-131.1, R.C.M., 1947, is amended to read as follows:

Amending clause.

"60-131.1. **Operation of pool as unit — commission to hold hearing — notice.** The commission, upon the application of persons owning leasehold interests underlying sixty per cent (60%) of the surface within the delineated area, shall hold a hearing to consider the need for the operation as a unit of one or more pools or parts thereof in a field, *for pressure maintenance or secondary recovery purposes as to oil or oil and gas; or to increase ultimate recovery or to prevent waste of gas from pools or portions of pools where gas only is produced.*

Application for unit pooling.

Hearing.

Purposes—

HeinOnline -- 1971 vol. I 679 1971

60 days notice.

(1) At least sixty (60) days prior to application, the applicant shall, by registered or certified mail, notify all known persons owning an interest in the oil and gas within the proposed unit area as disclosed by the records of the county or counties in which the proposed unit area is situated, at such persons' last known address, of applicant's intention to make such application. At the same time producers will be furnished with a plan of unit operations. Upon written request of any operator of any lease which is in whole or in part within the confines of the proposed delineated area, applicant will furnish such operator with copies of any exhibits to be submitted to the commission at the time of hearing."

Plan of unit operation.

Exhibits.

Amending clause.

Section 2. Section 60-131.2, R.C.M., 1947, is amended to read as follows:

Determination by commission.

"60-131.2. **Commission order — criteria.** The commission shall make an order providing for the unit operation of a pool or pools or part thereof if it determines, based on evidence presented at such hearing, that:

(1) Such operation is reasonably necessary to increase the ultimate recovery of oil or gas; and

(2) The value of the estimated additional recovery of oil or gas less royalties *or, as to gas pools only, the value of the economies to be affected* exceeds the estimated additional cost incident to conducting such operations; and

(3) The full areal extent of such pool or pools or part thereof has been reasonably defined and determined by drilling operations."

Amending clause.

Section 3. Section 60-131.3, R.C.M., 1947, is amended to read as follows:

Requirements of order.

"60-131.3. **Terms and conditions of order — requirements.** The order shall be upon terms and conditions that are just and reasonable and shall prescribe a plan for unit operations that shall include:

Description of unit area.

(1) A description of the pool or pools or parts thereof to be so operated, termed the unit area, but only so much of a pool as has reasonably been defined and determined by drilling operations to be productive of oil or gas may be included within the unit area. *In the event the unit is formed solely for production of gas, no spacing unit on which is located a well producing or capable of producing*

Spacing unit—gas production only.

HeinOnline -- 1971 vol. I 680 1971

gas on the effective date of this act, shall be included in the unit area without the written consent of the majority in interest of the working interest owners of such spacing unit and well.

Consent required.

(2) A statement of the nature and purpose of the plan and operations contemplated, together with a copy of the proposed unit agreement and unit operating agreement.

Statement of purpose.

(3) A plan for allocating to each tract in the unit area its fair share of the oil and gas produced from the unit area and not required or consumed in the conduct of the operation of the unit area or unavoidably lost. No such plan shall be approved by the commission until the commission has considered the relative value that such share of production bears to the relative value of all of the separately owned tracts in the unit area, exclusive of physical equipment utilized in unit operations. In so considering such relative value, the commission shall weigh the economic value of the gas to all persons affected as compared to the economic value of the oil to all persons affected.

Plan for allocation.

Considerations.

(4) A provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials, and equipment contributed to the unit operations.

Adjustments for equipment investments.

(5) A provision providing how the costs of unit operations, including overhead and capital investments, shall be determined and charged to the separately owned tracts, including a provision for carrying or otherwise financing any owner who has not executed the proposed unit operating agreement and who elects to be carried or otherwise financed, allowing an interest charge of the then current prime rate plus two percent (2%) for such service. Recovery of the money advanced, plus interest, shall be limited to, and only shall be recoverable from, such owner's share of production. Such recovery shall be as follows:

Determination of costs.

Recovery limited to owners' share of production.

Determination.

(a) *(1) In the case of a field producing oil, or oil and gas, during* the period of depletion of the remaining estimated primary reserves from the unit, only from the production that is in excess of such owners' average actual rate of production during the eighteen (18) months immediately preceding the effective date of the unit. For purposes of this subsection, the term 'primary reserves'

Oil or oil and gas fields.

'Primary reserves' defined.

HeinOnline -- 1971 vol. I 681 1971

means the oil or gas which would be produced from the unitized pool or pools as a result of the natural energy therein and without the introduction of a secondary recovery program.

(2) During the period subsequent to the depletion of the remaining estimated primary reserves from the unit, from one hundred per cent (100%) of such owners' share of production.

Gas fields.

(b) In the case of a field producing only gas, the recovery shall be from one hundred percent (100%) of such owners' share of production.

Conduct of unit operations.

(6) A provision for the supervision and conduct of the unit operations, in respect to which each owner shall have a vote with a value corresponding to the percentage of the costs of unit operations chargeable against the interest of such owner.

Challenge of unit operator.

(7) A provision whereby the unit operator, after having operated for a minimum period of two years, can be challenged by any other owner in the unit, and such challenging owner may succeed to the unit operations upon a showing that (a) he can operate more efficiently and economically than the present operator; (b) he is qualified and financially responsible; (c) a majority of the other owners, both in number and in percentage and exclusive of the challenged operator, approved such challenging owner becoming unit operator; and (d) the challenged operator does not initiate the conditions of operations of the challenging owner within sixty (60) days of the challenged operator's receipt of such conditions of operations.

Time of unit operations.

(8) The time when the unit operations shall commence, and the manner in which, and the circumstances under which, the unit operations shall terminate; and

Other provisions.

(9) Such additional provisions that are found to be appropriate for carrying on unit operations and for the protection and adjustment of correlative rights."

Amending clause.

Section 4. Section 60-131.6, R.C.M., 1947, is amended to read as follows:

Order may provide unit operation—prior unit.

"60-131.6. **Units established by previous order may be included — manner of inclusion.** The commission, by an order, may provide for the unit operation of a pool or pools or parts thereof that embraces a unit established by

HeinOnline -- 1971 vol. I 682 1971

an order of the commission made *prior* to the effective date of this amendment to Title 60, chapter 1, Revised Codes of Montana. Such order, in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the portion of the unit production so allocated thereto shall then be allocated among the tracts included in such previously established unit area in the same proportions as those specified in the previous order. Any new owner whose interest by such order is added to the unit area and who becomes liable for his proportionate share of the costs of unit operations will not be liable for any unit operating costs incurred prior to such person's entry in the unit. At the time such interest is included in the unit, an equipment inventory will be made in order to charge such newly committed interest with its proportionate share of capital investment at its then value. An oil-in-storage inventory will be taken immediately prior to adding the newly committed interest."

Treatment for allocation of unit production.

New owners.

Equipment inventory.

Oil-in-storage.

Section 5. Section 60-131.9, R.C.M., 1947, is amended to read as follows:

Amending clause.

"60-131.9. **Property rights — operator's lien — perfection of lien.** That portion of the unit production allocated to any tract, and the proceeds from the sale thereof, shall be the property and income of the several persons to whom, or to whose credit, the same are allocated or payable under the order providing for unit operations, except that the operator of the unit shall, subject to section 60-131.3, subdivision (5) (a) *(1)*, have a first and prior lien upon each owner's oil and gas rights and his share of unitized production to secure the payment of such owner's proportionate part of developing and operating the unit area. Such lien may be perfected and enforced in the same manner as provided in Title 45, chapter 5, Revised Codes of Montana, 1947, as amended. *Upon demand by any owner of working interest in any tract to which gas has been allocated, the unit operator shall deliver such allocated share of gas to the owner in kind; but the operator and the other owners of interest shall not be required to bear the cost of providing additional facilities for the delivery of such gas.*"

Allocation of production proceeds.

Liens.

Procedure.

Demand—delivery in kind.

Section 6. This act shall become effective upon passage and approval.

Effective immediately.

Approved March 1, 1971

HeinOnline -- 1971 vol. I 683 1971

CHAPTER NO. 151

An Act Amending Section 40-4745, R.C.M., 1947, to Provide for Inclusion of Foreign Stock Corporations and an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 40-4745, R.C.M., 1947, is amended to read as follows:

Domestic stock insurer—merger or consolidation.

"40-4745. **Mergers and consolidations of stock insurers.** (1) A domestic stock insurer may merge or consolidate with one or more domestic or foreign stock *corporations authorized to transact business in this state and* by complying with the applicable provisions of the statutes of this *state* governing the merger or consolidation of stock corporations formed for profit, but subject to subsections (2) and (3) below.

Prior approval of commissioner.

Hearing.

Findings.

(2) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the commissioner and approved in writing by him after a hearing thereon. The commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(a) Is contrary to law; or

(b) Inequitable to the stockholders of any domestic insurer involved; or

(c) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state or elsewhere.

(3) No director, officer, agent or employee of any insurer party to such merger or consolidation shall receive any fee, commission, compensation or other valuable consideration whatsoever for in any manner aiding, promoting or assisting therein except as set forth in such plan or agreement.

Notice.

(4) If the commissioner does not approve any such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.

Domestic insurer operating out-of-state—participation in hearing.

(5) If any domestic insurer involved in the proposed merger or consolidation is authorized to transact insurance also in other states, the commissioner may request the

HeinOnline -- 1971 vol. I 684 1971

insurance commissioner, director of insurance, superintendent of insurance or other similar public insurance supervisory official of the two other such states in which such insurer has in force the larger amounts of insurance, to participate in the hearing provided for under subsection (2) above, with full right to examine all witnesses and evidence and to offer to the commissioner such pertinent information and suggestions as they may deem proper.

Plan for exchange of controlling stock deemed merger.

(6) Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer through an exchange of stock of the first insurer, issued by the insurer for the purpose, for such controlling stock of the second insurer is deemed to be a plan or proposal of merger of the second insurer into the first insurer for the purposes of this section and is subject to the applicable provisions hereof."

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved March 1, 1971

CHAPTER NO. 152

An Act to Amend Sections 79-201 and 79-202, R.C.M., 1947, Relating to the General Fiscal Duties of the State Treasurer; Repealing Sections 79-801, 79-804, 79-806, 79-807, 79-808, and 79-810, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 79-201, R.C.M., 1947, is amended to read as follows:

Fiscal duties of state treasurer.

"79-201. **State treasurer—general fiscal duties.** *The state treasurer shall be the custodian of all moneys and securities of the state unless otherwise expressly provided by law, and it* is the duty of the state treasurer:

1. To receive and *account for* all moneys belonging to the state, not *expressly* required *by law* to be received and kept by some other person.

2. To issue receipts which must be consecutively numbered beginning with number one at the commencement of

HeinOnline -- 1971 vol. I 685 1971

each fiscal year for all sums of money which shall be paid into the treasury, and to deliver a copy of every such receipt to the person making such payment, the state auditor and the state controller.

3. To pay warrants out of the funds upon which they are drawn.

4. Upon payment of any warrant, to take upon the back thereof the receipt of the person to whom it is paid.

5. To keep an account of all moneys received and disbursed.

6. At the request of either house of the legislative assembly, or of any committee thereof, to give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office.

7. To discharge such other duties as may be imposed upon him by law."

Amending clause.

Section 2. Section 79-202, R.C.M., 1947, is amended to read as follows:

"79-202. **State moneys, how expended by treasurer.** *Except as herein provided no* moneys received by the state treasurer shall be paid out by him except upon state warrant issued by the state auditor, and the state auditor shall not issue his warrant upon the state treasurer *except upon a claim duly approved by the state controller in accordance with the laws governing the expenditure of state moneys; however, interest and principal on the public debt may be paid by treasurer's check from the moneys pledged for such payment, and the provisions of this section shall not apply to warrants issued upon contingent revolving accounts that are in the custody of the state treasurer."*

Monies paid out only on warrant.

Approval of claims.

Exception—public debt.

Repealing clause.

Section 3. Sections 79-801, 79-804, 79-806, 79-807, 79-808, and 79-810, R.C.M., 1947, are repealed.

Effective immediately.

Section 4. This act is effective upon its passage and approval.

Approved March 1, 1971

HeinOnline -- 1971 vol. I 686 1971

CHAPTER NO. 153

An Act to Provide that a County Shall Not Circumvent Any Competitive Bidding Procedures with Respect to the Letting of a Contract for a Public Work or Construction Project Under Certain Circumstances by Dividing a Public Work or Construction Project into Several Contracts, Separate Work Orders or Similar Devices.

Be it enacted by the Legislative Assembly of the State of Montana:

County cannot circumvent required bidding procedures.

Section 1. Whenever any law of this state provides a limitation upon the amount of money that a county can expend upon any public work or construction project without letting such public work or construction project to contract under competitive bidding procedures, a county shall not circumvent such provision by dividing a public work or construction project or quantum of work to be performed thereunder which by its nature or character is integral to such public work or construction project, or serves to accomplish one of the basic purposes or functions thereof, into several contracts, separate work orders or by any similar device.

Approved March 1, 1971

CHAPTER NO. 154

An Act to Amend Section 16-1406, R.C.M., 1947, to Permit the Increase of the Appropriation for County Fairs.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-1406, R.C.M., 1947, is amended to read as follows:

Annual appropriation to county fair commission limited to $3,500.

"16-1406. **Appropriation and tax levy for county fairs.** The board of county commissioners of their respective counties may appropriate annually out of the general fund of the county treasury to the county fair commission a sum not to exceed *three thousand five hundred dollars ($3,500),* to be expended by the county fair commission for the purpose of holding a county fair and/or junior fair, for advertising the products and resources of their county. In addition to the appropriation above provided for, or in lieu thereof, the county commissioners of any county in Montana shall have the power to levy an ad

Power to levy tax for fair purposes.

HeinOnline -- 1971 vol. I 687 1971

valorem tax of one and one-half (1½) mills or less on each dollar of taxable property in such county, for the purpose of securing, equipping, maintaining and operating a county fair and/or a junior fair, including the purchase of land for such purposes, and the erection of such buildings and other appurtenances as may be necessary; provided, however, that no portion of said appropriation or tax levy shall be expended for horse racing."

Exclusion—horse racing.

Approved March 1, 1971

CHAPTER NO. 155

An Act to Amend Section 71-610, R.C.M., 1947, Empowering the State Department of Public Welfare to Authorize Supplementary Optometric Services Upon an Optometric Examination to Qualified Welfare Recipients.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-610, R.C.M., 1947, is amended to read as follows:

Welfare board may authorize treatment for blindness.

"71-610. **Expenses for treatment.** On the basis of the findings of the ophthalmologist's examination, supplementary services may be authorized by the state department to any applicant or recipient who is in need of treatment either to prevent blindness or to restore his eyesight whether or not he is blind, if he is otherwise qualified for assistance under this chapter. The supplementary services may include necessary traveling and other expenses to receive treatment from a hospital or clinic designated by the state department.

Supplementary optometric services.

On the basis of the findings of an optometric examination, supplementary services may be authorized by the state department to any applicant or recipient who is in need of optometric services, if he is otherwise qualified for assistance under this chapter. The supplementary services may include necessary traveling and other expenses to receive treatment from a hospital or clinic designated by the state department."

Approved March 1, 1971

HeinOnline -- 1971 vol. I 688 1971

CHAPTER NO. 156

An Act to Amend Sections 91-502, 91-504 through 91-508 and 91-523, R.C.M., 1947, to Move the Record Keeping Function and Administration of Personal Property Sales Under the Escheated Property Act from the Office of the State Treasurer to the State Board of Equalization.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 91-502, R.C.M., 1947, is amended to read as follows: Amending clause.

"91-502. **Title to escheated property vests in state — when.** Whenever the title to any property, either real or personal, or mixed, fails for any reason including want of heirs or next of kin, such title shall vest in the state of Montana immediately upon the death of the owner without an inquest or other proceeding in the nature of office found, and there shall be no presumption that such owner died leaving heirs or next of kin; provided that in relation to property other than estates, title shall be presumed to have failed whenever the owner, beneficial owner, or person entitled to any such property within this state has been or shall be and remain unknown for a period of twenty (20) successive years, and during such period whenever the whereabouts of such owner, beneficial owner or persons has been or shall be and remain unknown, and during such period whenever any personal property wherever situated has been or shall be and remain unclaimed, then, in such event, such personal property shall escheat to the state. Escheated property title vests in state on death of owner. Presumption—owner unknown for 20 years. Unclaimed personal property.

All sums escheated under the provisions of the Escheated Property Act shall be *delivered by the state board of equalization to the state treasurer and* deposited by the treasurer in the agency fund; in connection with the recovery of money or property from escheats other than those from estates, the *state board of equalization* is hereby authorized and directed to deduct the costs incurred in reducing such moneys or property to the possession of the state of Montana, which sum shall not exceed five per centum (5%) of the amount so recovered, except for such other costs and fees as the judgment of escheat shall so direct. Deposit of escheated monies. Duty of board to deduct costs. 5% of recovered amount.

Moneys and properties placed in the agency fund shall be held in trust for a period of ten (10) years prior to Held in trust 10 years.

HeinOnline -- 1971 vol. I 689 1971

Deposit of funds. Owner may claim—procedure.

deposit in the public school subfund in the trust and legacy fund by the state treasurer; such ten (10) year period being a time within which the owner, beneficial owner, or any person having a right, title, or interest in the property or money escheated may make claim by the institution of an action for the dissolution of the trust in an amount equal to the full amount or value of the property escheated minus the costs and expenses incident to reducing the same to the possession of the state.

Escheatable property. Discovery on motion.

In order to ascertain if any person has knowledge of or is in possession of any escheatable property, it shall be lawful for the attorney general or his assistant to obtain discovery on motion in the district court requiring any such person or persons to divulge any information they may have concerning the possession or location of any property subject to escheat, or any other information pertinent to the recovery of such property by the state of Montana or which information may lead to the discovery of such escheatable property."

Amending clause.

Section 2. Section 91-504, R.C.M., 1947, is amended to read as follows:

Investments. Court order to sell property. Deposit of monies.

"91-504. **Investment and disposal of money and property.** The moneys thus deposited may, upon order of the court or judge, be invested, pending the proceedings, in securities of the United States, or of this state, when such investment is for the best interests of the estate. At the final settlement of any estate, if there be no heirs or other claimants thereof, the district judge shall make an order directing the public administrator to sell all property belonging to the estate and pay the proceeds to the county treasurer, who shall keep an account with such estate of all moneys received and paid to him, and the county treasurer shall forthwith remit all of said money to the *state board of equalization* with a statement as to the estates to which the money belongs. *The board shall immediately deliver such money to* the state treasurer *who* shall thereupon deposit such money so received by him in the agency fund of the state of Montana."

Amending clause.

Section 3. Section 91-505, R.C.M., 1947, is amended to read as follows:

Duty to deliver unsold personal property to state board of equalization.

"91-505. **Unsold personal property, how disposed of — auction sale.** If the personal property in an estate was not sold by the executor or administrator at the final

HeinOnline -- 1971 vol. I 690 1971

settlement of the estates as by law provided, then it shall be the duty of such executor or administrator to turn over all of such property to the county treasurer, who in turn shall deliver it to the *state board of equalization* with a statement setting forth the name of the estate to which it belongs, and the *state board of equalization* must within one (1) year of the receipt of such property cause the same to be sold to the highest bidder at a public auction sale, at *the board's* office in Helena, Montana. The *state board of equalization* shall give notice of such sale by publication in a newspaper published in the city of Helena, Montana, once a week for two (2) successive weeks, making in all two (2) publications, the last publication to be at least twenty (20) days prior to the date of such sale. Such notice shall give the time and place of such sale and shall contain a list and description of the stocks, bonds, securities, effects, or other personal property to be sold. All of the expenses of such sale shall be deducted from the proceeds thereof by the *state board of equalization* and the balance of such proceeds shall be *delivered by the board to* the state treasurer *for deposit* in the agency fund of the state of Montana."

Within one year—duty to sell at public auction.

Publication of notice of sale.

Expenses of sale. Deposit of proceeds.

Section 4. Section 91-506, R.C.M., 1947, is amended to read as follows:

Amending clause.

"91-506. **Unsold real property, how disposed of — auction sale.** If the real property was not sold by the executor or administrator or public administrator at the final settlement of the estate as by law provided, then it shall be the duty of the executor or administrator or public administrator to make and execute to the state of Montana an executor's or administrator's deed and to deliver the same to the county clerk and recorder of the county wherein such real property is situated, and it shall then become the duty of the county clerk and recorder to file and record said deed, without charge, and after being so recorded the county clerk and recorder shall mail the said deed to the *state board of equalization which shall make a record thereof and deliver the deed to the* state board of land commissioners. Within one (1) year after the receipt of such recorded deed the state board of land commissioners shall cause such property to be sold to the highest bidder at public auction sale, to be held at the courthouse in the county where such real property or any part thereof is situated. The state board of land com-

Duty to execute conveyance of unsold real property.

Recording.

Delivery of deed.

Within one year.

Duty of state land board to sell at public auction.

Publication of notice of sale.

HeinOnline -- 1971 vol. I 691 1971

missioners shall give notice of such sale by publication in a newspaper published in the county wherein such real estate or any part thereof is situated once a week for two (2) weeks, making in all two (2) publications, the last publication to be at least twenty (20) days prior to the date of such sale. Such notice shall give the time and place of such sale and contain a description of the real property to be sold. All expenses of such sale shall be deducted by the state board of land commissioners from the proceeds thereof and the balance of such proceeds shall be turned over to the state treasurer who shall deposit the same in the agency fund of the state of Montana. *The board of land commissioners shall provide the state board of equalization with a statement indicating the sale price, expenses and net proceeds resulting from each such sale.*''

Expenses.

Deposit of monies.

Statement of sale.

Amending clause.

Section 5. Section 91-507, R.C.M., 1947, is amended to read as follows:

Unclaimed personal property in hands of agent.

"91-507. **Unclaimed personal property in hands of agent — disposal.** Whenever the personal property in an estate remains in the hands of an agent, unclaimed for two (2) years and it appears to the court or judge that it is for the best interests of the estate and those interested therein, such property shall be sold under the order of the court or judge and the proceeds, after deducting the expense of the sale allowed by the court or judge, must be paid *to the state board of equalization for deposit* into the state treasury, and upon receipt of such proceeds it shall be the duty of the state treasurer to deposit the same in the agency fund of the state of Montana.''

Sale.

Proceeds paid to state board.

Deposit.

Amending clause.

Section 6. Section 91-508, R.C.M., 1947, is amended to read as follows:

Conditions of sales —public auction mandatory.

"91-508. **Sales by** *state board of equalization,* **how conducted.** All hereinbefore mentioned sales by the *state board of equalization* must be at public auction at *the board's* office. Said sales must be for cash and shall be made to the highest bidder, provided, however, that *the board* may reject all bids which are disproportionate to the value of the property being sold.''

Amending clause.

Section 7. Section 91-523, R.C.M., 1947, is amended to read as follows:

Delivery of monies to state board.

"91-523. **Disposition of money.** All money, including that realized from the sale or sales of property delivered

HeinOnline -- 1971 vol. I 692 1971

to the county by an executor or administrator, under the provisions of this act shall, immediately upon its receipt by the county treasurer be delivered *to the state board of equalization which shall immediately deliver same* to the state treasurer and by him deposited in the agency fund of the state of Montana."

Deposit.

Approved March 1, 1971

CHAPTER NO. 157

An Act Accepting the Cession of Concurrent Jurisdiction With the United States Over the Real Property Comprising the Veterans' Administration Center, Fort Harrison, Montana; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The state of Montana hereby accepts the cession of concurrent jurisdiction with the United States over the real property comprising the Veterans' Administration Center, Fort Harrison, Montana as ceded by Public Law 91-45; 83 Stat. 48, which was approved July 19, 1969, and made effective upon acceptance of the cession by the state of Montana.

State accepts concurrent jurisdiction of Fort Harrison property.

Section 2. This act is effective on its passage and approval.

Effective immediately.

Approved March 1, 1971

CHAPTER NO. 158

An Act Relating to Elections Upon Questions Which Concern or May Concern the Creation of a Public Debt or Liability and the Qualifications of Persons Petitioning for and Voting at Such Elections: Amending Sections 1-804, 23-2701, 23-2702, 23-2703, 23-3012, 23-4201, 11-2217, 11-2271, 11-2275, 11-2306, 11-2310, 11-2404, 11-3906, 16-2021, 16-2022, 16-2026 and 93-2612, R.C.M. 1947; Prescribing a Period of Limitation Upon Actions and Defenses Raising an Issue as to Such Qualifications; and Providing an Effective Date.

HeinOnline -- 1971 vol. I 693 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Declaration.

Section 1. **Legislative policy and purpose.** Section 2 of article IX of the Montana constitution provides that in order to entitle a person to vote upon a question which may be submitted to a vote of the people or electors, if the question concerns the creation of any levy, debt or liability, he must, in addition to possessing other qualifications, be a taxpayer whose name appears on the last preceding completed assessment roll. Recent decisions of the supreme court of the United States hold that similar provisions in the constitutions and statutes of other states are in conflict with the equal protection clause of the fourteenth amendment to the constitution of the United States. The ability of the state and of its counties, cities, towns and school districts and other political subdivisions to provide funds needed for essential governmental purposes depends in substantial part upon their ability to create valid debts and liabilities and, when the same are required by law or the constitution to be submitted to a vote of the people or electors, to record and canvass such vote in such manner as to determine finally and conclusively whether or not the debt or liability has been approved by the required majority vote of the electors qualified and offering to vote thereon. It is therefore the policy and purpose of this law to eliminate all statutory electors' qualifications for voting on the creation of any public debt or liability except such qualifications as are validly by or pursuant to the Montana constitution; to provide an adequate procedure for hearing and determination of any issue raised with reference to such qualifications; and to limit to a reasonable time the period within which such issues may be raised.

Purpose of act.

Amending clause.

Section 2. Section 23-2701, R.C.M. 1947, is amended to read as follows:

Voter qualifications.

"23-2701. **Qualifications of voter.** (1) *No* person *may be* entitled to vote at general and special elections for officers which are elective, and upon questions submitted to the vote of the people *unless* he has the following qualifications:

Registration.

(a) He must be registered as required by law;

Age.

(b) He must be *of the minimum age for voting provided by the Constitution of the state of Montana;*

HeinOnline -- 1971 vol. I 694 1971

(c) He must have resided in the state one (1) year and in the county thirty (30) days immediately preceding the election at which he offers to vote; Residency.

(d) He must be a citizen of the United States. Citizen.

(2) No person convicted of a felony has the right to vote unless he has been pardoned. Felon cannot vote.

(3) No person adjudicated insane has the right to vote unless he has been restored to capacity as provided by law.'' Insane cannot vote.

Section 3. Section 23-2702, R.C.M. 1947, is amended to read as follows: Amending clause.

''23-2702. *Elector* **qualifications** *for creation of debt or liability. Every person possessing the qualifications validly required by section 23-2701 and by the Constitution is entitled to vote at any election of the state and of any county, city, town, school district and other political subdivision upon creation of a public debt or liability.''* Voter qualifications for creation of debt.

Section 4. Section 23-2703, R.C.M. 1947, is amended to read as follows: Amending clause.

''23-2703. **Elector who is registered in one county and listed on assessment roll of another county entitled to vote** *in precinct where registered* — **receipt — certificate — registrar's duties.** (1) If *at any election the right to vote is limited to taxpayers upon property,* an elector *who* is registered in a county where his name does not appear on the last completed assessment roll but *whose* name does appear on the last completed assessment roll of another county, is entitled to vote in the precinct in which he is registered if he presents to the registrar of the county in which he is registered before close of registration: Elector entitled to vote in precinct where registered. Evidence of assessment in another county.

(a) A receipt from the treasurer of the county in which he appears on the last assessment roll showing payment of the taxes, or,

(b) A certificate from the treasurer of that county certifying that he is assessed with property, but that the taxes have not yet been paid.

(2) The certificate must be dated, numbered, name the elector, describe the property assessed, show the amount of taxes, and be signed by the county treasurer. The treasurer must keep a duplicate on file.

HeinOnline -- 1971 vol. I 695 1971

Duty of registrar.

(3) Whenever a certificate or receipt from the county treasurer is presented, the registrar shall:

(a) Enter the elector's name in the pollbook of electors entitled to vote on the question;

(b) Enter in the pollbook the date and number of the tax receipt or certificate and the county in which issued.

Amending clause.

Section 5. Section 23-3012, R.C.M. 1947, is amended to read as follows:

Duty of registrar to prepare lists of electors.

"23-3012. **Lists of registered electors — precinct register — indication of taxpayer electors.** (1) Immediately after registration is closed, the registrar shall prepare lists of all registered electors. He shall also prepare a precinct register for each precinct and deliver it to the judges of election prior to the opening of the polls.

"Taxpayer" stamp required.

(2) The registrar shall stamp "taxpayer" beside the name of an elector who is a taxpayer to show he is qualified to vote in an election *at which voting is validly limited by the constitution to taxpayers.*"

Amending clause.

Section 6. Section 23-4201, R.C.M. 1947, is amended to read as follows:

Elector may contest bond election for cause.

"23-4201. **Grounds for challenge** (1) Any elector qualified to vote in a bond election of a county, city, or of any political subdivision of either may contest a bond election, for any of the following causes:

(a) That the precinct board in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election;

(b) That any official charged with a duty under this act, failed to perform that duty;

(c) That in conducting the election, any official charged with a duty under this act, violated any of the provisions of this act relating to bond elections;

(d) That electors qualified to vote in the election under the provisions of the constitutions of Montana and the United States were not given opportunity to vote in the election;

(e) That electors not qualified to vote in the election under the provisions of the constitutions of Montana and the United States were permitted to vote in the election."

HeinOnline -- 1971 vol. I 696 1971

(2) Within *sixty (60)* days after the election, the contestant shall file a verified petition with the clerk of the court in the judicial district where the election was held."

Within 60 days.

Section 7. Section 11-2217, R.C.M. 1947, is amended to read as follows:

Amending clause.

"11-2217. **Cities and towns may establish sewage treatment and disposal plant systems and water supply and distribution systems.** Any city or town may when authorized so to do by a majority vote of the qualified electors voting on the question establish, build, construct, reconstruct and/or extend a storm and/or sanitary sewerage system and/or a plant or plants for treatment or disposal of sewage therefrom, or a water supply and/or distribution system, or any combinations of such systems, and may operate and maintain such facilities for public use, and in addition to all other powers granted to it, such municipality shall have authority, by ordinance duly adopted by the governing body to charge just and equitable rates, charges or rentals for the services and benefits directly or indirectly furnished thereby. Such rates, charges or rentals shall be as nearly as possible equitable in proportion to the services and benefits rendered, and sewer charges may take into consideration the quantity of sewage produced and its concentration and water pollution qualities in general and the cost of disposal of sewage and storm waters. The sewer charges may be fixed on the basis of water consumption or any other equitable basis the governing body may deem appropriate and, if the governing body determines that the sewage treatment and/or storm water disposal prevents pollution of sources of water supply, may be established as a surcharge on the water bills of water consumers or on any other equitable basis of measuring the use and benefits of such facilities and services. In the event of nonpayment of charges for either water or sewer service and benefits to any premises, the governing body may direct the supply of water to such premises to be discontinued until such charges are paid.

City or town may establish sewage and water systems.

Service rates.

Determination.

Penalty for nonpayment.

In this act "qualified electors" shall mean registered electors of the municipality. The question of building, constructing, reconstructing or extending the system, plant or plants and the question of issuing and selling revenue bonds for such purpose may be submitted as a

"Qualified electors" defined.

HeinOnline -- 1971 vol. I 697 1971

Election.

single proposition or as separate propositions. Any election under this act may be called by a resolution of the governing body which it may adopt without being previously petitioned to do so."

Amending clause.

Section 8. Section 11-2275, R.C.M. 1947, is amended to read as follows:

Supplemental revolving fund authorized.

"11-2275. **Creation and maintenance of fund.** A supplemental revolving fund may be created by ordinance subject to the approval of a majority of the qualified electors voting upon the question at a general or special election. As used in this act "qualified electors" shall mean registered electors *of* the municipality. The supplemental revolving fund shall be created and maintained solely from the net revenues of parking meters and the ordinance may pledge to said fund all or any part of the said net revenues of parking meters which may be then owned or leased or rented or thereafter acquired by the city or town. Said ordinance shall contain such provisions in respect to the purchase, control, operation, repair and maintenance of parking meters, including rates to be charged, and the application of the net revenues therefrom and the management and use of the supplemental revolving fund as the council shall deem necessary."

"Qualified electors' defined.

Net revenues from parking meters.

Ordinance provisions.

Amending clause.

Section 9. Section 11-2306, R.C.M. 1947 is amended to read as follows:

Election required for bond issue by city or town.

"11-2306. **Petition for election — form — proof.** No bonds shall be issued by a city or town for any purpose, except to fund or refund warrants or bonds issued prior to and outstanding on July first, 1942, as authorized in section 11-2301, unless authorized at a duly called special or general election at which the question of issuing such bonds was submitted to the qualified electors of the city or town, and approved, as hereinafter provided, and no such election shall be called unless there has been presented to the city or town council a petition, asking that such election be held and question submitted, signed by not less than twenty per centum (20%) of the qualified electors of the city or town. Every petition for the calling of an election to vote upon the question of issuing bonds shall plainly and clearly state the purpose or purposes for which it is proposed to issue such bonds, and shall contain an estimate of the amount necessary to be issued for such purpose or purposes. There may

Petition.

20% of electors.

HeinOnline -- 1971 vol. I 698 1971

be a separate petition for each purpose, or two (2) or more purposes may be combined in one (1) petition, if each purpose with an estimate of the amount of bonds to be issued therefor is separately stated in such petition. Such petition may consist of one (1) sheet, or of several sheets identical in form and fastened together, after being circulated and signed, so as to form a single complete petition before being delivered to the city or town clerk, as hereinafter provided. The petition shall give the street and house number, if any, and the voting precinct of each person signing the same.

Only qualified signers may circulate petition—affidavit.

Only persons who are qualified to sign such petitions shall be qualified to circulate the same, and there shall be attached to the completed petition the affidavit of some person who circulated, or assisted in circulating, such petition, that he believes the signatures thereon are genuine and that the signers knew the contents thereof before signing the same. The completed petition shall be filed with the city or town clerk who shall, within fifteen (15) days thereafter, carefully examine the same and the county records showing the qualifications of the petitioners, and attach thereto a certificate, under his official signature, which shall set forth:

Filing procedure.

Clerk's certificate.

(1) The total number of persons who are registered electors.

(2) Which, and how many of the persons whose names are subscribed to such petition, are possessed of all of the qualifications required of signers to such petition.

(3) Whether such qualified signers constitute more or less than twenty per centum (20%) of the registered electors *of the* city or town."

Amending clause.

Section 10. Section 11-2310, R.C.M. 1947, is amended to read as follows:

"11-2310. ***Registration of electors.*** Upon the adoption of the resolution calling for the election the city or town clerk shall notify the county clerk of the date on which the election is to be held and the county clerk must cause to be published in the official newspaper of the city or town, if there be one, and if not in a newspaper circulated generally in the said city or town and published in the county where the said city or town

Notice to county clerk.

Publication.

HeinOnline -- 1971 vol. I 699 1971

Notice of closing registration for bond election.

is located, a notice signed by the county clerk stating that registration for such bond election will close at noon on the fifteenth (15th) day prior to the date for holding such election and at that time the registration books shall be closed for such election. Such notice must be published at least five (5) days prior to the date when such election books shall be closed.

County clerk shall prepare lists of electors.

Precinct registers.

Delivery to judges of election.

After the closing of the registration books for such election the county clerk shall promptly prepare lists of the qualified electors of such city or town who are entitled to vote at such election and shall prepare precinct registers for such election as provided in section *23-3012* and deliver the same to the city or town clerk who shall deliver the same to the judges of election prior to the opening of the polls. It shall not be necessary to publish or post such lists of qualified electors."

Amending clause.

Section 11. Section 11-2404, R.C.M. 1947, is amended to read as follows:

Authority for municipal undertaking.

"11-2404. **Authorization of undertaking — form and contents of bonds.** The acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking may be authorized under this

Bonds.

Resolutions.

chapter, and bonds may be authorized to be issued under this chapter by resolution or resolutions of the governing body of the municipality, when authorized by

Majority vote.

Special election.

a majority of the *qualified electors* voting upon such question at a special election noticed and conducted as provided in sections 11-2308 to 11-2310, inclusive, and said special election shall be held not later than the next municipal election held after the council or governing body of the municipality has by resolution or resolutions approved the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking as in this chapter provided and ordered said

Exception—refunding revenue bonds.

special election; provided, that the issuance of refunding revenue bonds may be authorized by resolution or resolutions of the governing body of the municipality without an election.

Bonds—maximum interest rate 6%.

Said bonds shall bear interest at such rate or rates not exceeding six per centum (6%) per annum, payable semi-

Form.

annually, may be in one or more series, may bear such date or dates, may mature at such time or times not ex-

40 year limitation.

ceeding forty (40) years from their respective dates, may

HeinOnline -- 1971 vol. I 700 1971

be payable in such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such resolution or subsequent resolutions may provide. Said bonds shall be sold at not less than par. Said bonds may be sold at private sale to the United States of America or any agency, instrumentality or corporation thereof. Unless sold to the United States of America or agency, instrumentality or corporation thereof, said bonds shall be sold at public sale after notice of such sale published once at least five (5) days prior to such sale in a newspaper circulating in the municipality and in a financial newspaper published in the city of New York, New York, or the city of Chicago, Illinois, or the city of San Francisco, California, except that, in the event the bond issue is in an amount of less than one hundred fifty thousand dollars ($150,000), the bond issue shall be advertised at least five (5) days prior to such sale in daily newspapers circulating in Montana cities of 10,000 population or over, in lieu of advertising in a financial newspaper in New York, Chicago, or San Francisco, and also in a newspaper as specified in section 16-1201 if that newspaper is different from the daily newspapers circulating in Montana cities of 10,000 population or over. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the governing body may determine may be issued to the purchaser or purchasers of bonds sold pursuant to this chapter. Said bonds and interim receipts or certificates shall be fully negotiable, as provided by the Uniform Commercial Cide — Investment Securities."

Private sale.

Public sale— publication of notice.

Amount less than $150,000.

Interim receipts.

Negotiability.

Section 12. Section 16-2021, R.C.M. 1947, is amended to read as follows:

Amending clause.

"16-2021. **Petition and election required for bonds issued for other purposes.** County bonds for any other purpose than those enumerated in section 16-2013 shall not be issued unless authorized at a duly called special or general election at which the question of issuing such bonds was submitted to the qualified electors of the county and approved, as provided in section 16-2027; and no such bond election shall be called unless there has been presented to the board of county commissioners

Election required for county bonds.

HeinOnline -- 1971 vol. I 701 1971

Petition. a petition, asking that such election be held and such question be submitted, signed by not less than twenty 20% of electors. per centum (20%) of the qualified electors of the county."

Amending clause. Section 13. Section 16-2022, R.C.M. 1947, is amended to read as follows:

Form of petition. "16-2022. **Form, contents and proof of petition.** Every petition for the calling of an election to vote upon the question of issuing county bonds shall plainly and clearly state the purpose or purposes for which the proposed bonds are to be issued, and shall contain an estimate of the amount necessary to be issued for such purpose or purposes. There may be a separate petition for each purpose, or two (2) or more purposes may be combined in one (1) if each purpose, with an estimate of the amount of bonds necessary to be issued therefor, is separately stated in such petition. Such petition may consist of one (1) sheet, or of several sheets identical in form and fastened together after being circulated and signed so as to form a single complete petition before being delivered to the county clerk as hereinafter provided. The petition shall give the post-office address and voting precinct of each person signing the same.

Only qualified signers may circulate petition—affidavit. Only persons who are qualified to sign such petitions shall be qualified to circulate the same, and there shall be attached to the completed petition the affidavit of some person who circulated, or assisted in circulating such petition, that he believes the signatures thereon are genuine and that the signers knew the contents thereof before signing the same. The completed petition

County clerk's certificate. shall be filed with the county clerk who shall, within fifteen (15) days thereafter, carefully examine the same and the county records showing the qualifications of the petitioners, and attach thereto a certificate under his official signature and the seal of his office, which certificate shall set forth:

(1) The total number of persons who are registered electors.

(2) Which and how many of the persons whose names are subscribed to such petition are possessed of all of the qualifications required of signers to such petition.

(3) Whether such qualified signers constitute more

HeinOnline -- 1971 vol. I 702 1971

or less than twenty per centum (20%) of the registered electors *of the county.*"

Section 14. Section 16-2026, R.C.M. 1947, is amended to read as follows: Amending clause.

"16-2026. *Registration.* Upon the adoption of the resolution calling for the election, the county clerk must cause to be published in the official newspaper of the county a notice, signed by him, stating that registration for such bond election will close at noon on the fifteenth day prior to the date for holding such election and at that time the registration books shall be closed for such election. Such notice must be published at least ten (10) days prior to the day when such registration books will be closed. County clerk shall publish notice of closing of registration.

After the closing of the registration books for such election the county clerk shall promptly prepare lists of the registered electors of such voting precinct who are entitled to vote at such election, and shall prepare precinct registers for such election, as provided in section *23-3012,* and deliver the same to the judges of election prior to the opening of the polls. It shall not be necessary to publish or post such list of qualified electors." County clerk shall prepare lists. Precinct registers. Delivery to judges of election.

Section 15. Section 93-2612, R.C.M. 1947, is amended to read as follows: Amending clause.

"93-2612. **Actions** *relating to* **bond issues, time for bringing.** No action can be brought for the purpose of restraining the issuance and sale of bonds *or other obligations* by *the state of Montana or* any school district, county, city, town, *or political subdivision of* the state, or for the purpose of restraining the levy and collection of taxes for the payment of such bonds *or other obligations,* after the expiration of sixty (60) days from the date of the *election on such bonds or obligations or, if no election was held thereon, after the expiration of sixty (60) days from the date of the* order, *resolution or ordinance* authorizing the issuance *thereof,* on account of any defect, irregularity, or informality in giving notice *of* or not holding the election; *nor shall any defense based upon any such defect, irregularity, or informality be interposed in any action unless brought within this period. This section applies but is not limited to any action and defense in which the issue is raised whether a voted debt or liability* Action to restrain bond issues must be brought within 60 days.

HeinOnline -- 1971 vol. I 703 1971

has carried by the required majority vote of the electors qualified and offering to vote thereon."

Amending clause. Section 16. Section 1-804, R.C.M. 1947, is amended to read as follows:

Tax levy authorized for airports. "1-804. **Tax levy for establishment and operation of airports.** For the purpose of establishing, constructing, equipping, maintaining and operating airports and landing fields under the provisions of this act the county commissioners or the city or town council may each year assess and levy in addition to the annual levy for general administrative purposes, a tax of not to exceed two (2) mills on the dollar of taxable value of the property of said county, city or town. In the event of a jointly established airport or landing field, the county commissioners and the council or councils involved shall determine in advance the levy necessary for such purposes and the proportion each political subdivision joining in the venture shall pay, based upon the benefits it is determined each shall derive from the project. Provided, that if it be found that the levy hereby authorized will be insufficient for the purposes herein enumerated, the commissioners and councils acting are hereby authorized and empowered to contract an indebtedness on behalf of such county, city or town, as the case may be, upon the credit thereof by borrowing money or issuing bonds for such purposes, provided that no money may be borrowed and no bonds may be issued for such purpose until the proposition has been submitted to the *qualified electors,* and a majority vote to be cast therefor, except that for the purpose of establishing a reserve fund to resurface, overlay, or improve existing runways, taxiways and ramps, said governing bodies may set up annual reserve funds in their annual budget, provided said reserve is approved by the governing bodies during the normal budgeting procedure. Provided further that the necessity to resurface or improve said runways by overlays or similar methods every so many years is based upon competent engineering estimates, and provided that said funds are expended at least within each ten (10) year period. Said fund shall not exceed at any time a competent engineering estimate of the cost of resurfacing or overlaying the existing runways, taxiways and ramps, of any one airport for each said fund. The governing body of said airport if in its judgment deems it advan-

Determination of levy.

Authority to contract indebtedness.

Borrow money—issue bonds.

Election.

Majority vote.

Reserve funds.

Annual budget.

Conditions.

Limitations on amount.

HeinOnline -- 1971 vol. I 704 1971

tageous, may invest the fund in any interest-bearing deposits in a state or national bank insured by the F.D.I.C. or obligations of the United State of America, either short-term or long-term. Interest earned from such investments shall be credited to the operations and maintenance budget of said airport governing body. The above provisions, notwithstanding other budget control measures, and due to the uniqueness of the subject matter, and are hereby declared necessary in the interests of the public health and safety."

Investment.

Interest deposit.

Section 17. Section 11-2271, R.C.M. 1947, is amended to read as follows:

Amending clause.

"11-2271. **Loans from revolving fund for paying improvement district warrants — authorization by electors.** (1) Whenever any special improvement district bond or warrant, or any interest thereon, shall be, at the time of the passage of this act, or shall thereafter become due and payable, and there shall then be either no money or not sufficient money in the appropriate district fund with which to pay the same, an amount sufficient to make up the deficiency may, by order of the council, be loaned by the revolving fund to such district fund, and thereupon such bond or warrant or such interest thereon, or in case of such bonds or warrants due at the time of the passage of this act, such part of the amount due on such bond or warrant, whether it be for principal or for interest or for both as the council may in its discretion elect or determine shall be paid from the money so loaned or from the money so loaned when added to such insufficient amount, as the case may require.

Loans from revolving fund authorized to pay special improvement district bonds.

(2) In connection with any public offering of special improvement district bonds or warrants, the city or town council may undertake and agree to issue orders annually authorizing loans or advances from the revolving fund to the district fund involved in amounts sufficient to make good any deficiency in the bond and interest accounts thereof to the extent that funds are available, and may further undertake and agree to provide funds for such revolving fund pursuant to the provisions of section 11-2270 by annually making such tax levy (or, in lieu thereof, such loan from the general fund) as the city or town council may so agree to and undertake, subject to the maximum limitations imposed by said section 11-2270, which said undertakings and agreements shall be

Council may issue orders to make good any deficiencies in bond and interest accounts.

Tax levy.

HeinOnline -- 1971 vol. I 705 1971

binding upon said city or town so long as any of said special improvement district bonds or warrants so offered, or any interest thereon, remain unpaid."

Amending clause.

Section 18. Section 11-3906, R.C.M. 1947, is amended to read as follows:

Determinations required for urban renewal projects.

"11-3906. **Preparation and approval of urban renewal projects and urban renewal plans.** (a) A municipality shall not approve an urban renewal project for an urban renewal area unless the local governing body has, by resolution, determined such area to be a blighted area and designated such area as appropriate for an urban renewal project. The local governing body shall not approve an urban renewal plan until a comprehensive plan or parts of such plan for an area which would include an urban renewal area for the municipality have been prepared. For this purpose, and other municipal purposes, authority is hereby vested in every municipality to prepare, to adopt, and to revise from time to time, a comprehensive plan or parts thereof for the physical development of the municipality as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related municipal planning activities, and to make available and to appropriate necessary funds therefor. A municipality shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal project plan in accordance with subsection (d) hereof.

Plan.

Municipal authority for development.

Planning commission.

Procedure for urban renewal plan.

(b) The municipality may itself prepare or cause to be prepared an urban renewal plan, or any person or agency, public or private, may submit such a plan to the municipality. Prior to its approval of an urban renewal project, the local governing body shall submit such plan to the planning commission of the municipality for review and recommendations as to its conformity with the comprehensive plan or parts thereof for the development of the municipality as a whole. The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the local governing body within sixty (60) days after receipt of it. Upon receipt of the recommendations of the planning commission, or if no recommendations are received within said sixty (60) days, then without such recommendations, the local governing body may proceed with the

Review and recommendations.

60 days.

HeinOnline -- 1971 vol. I 706 1971

hearing on the proposed urban renewal project plan prescribed by subsection (c) hereof.

Public hearing.

(c) The local governing body shall hold a public hearing on an urban renewal plan after public notice thereof. Such notice shall be given by publication once each week for two consecutive weeks not less than ten (10) nor more than thirty (30) days prior to the date of the hearing in a newspaper having a general circulation in the urban renewal area of the municipality and by mailing a notice of such hearing not less than ten (10) days prior to the date of the hearing to the persons whose names appear on the county treasurer's tax roll as the owner or reputed owner of the property, at the address shown on the tax roll. The notice shall describe the time, date, place, and purpose of the hearing, shall generally identify the urban renewal area affected, and shall outline the general scope of the urban renewal plan under consideration.

Publication of notice.

Mailing of notice.

Requirement of notice.

Findings—approval.

(d) Following such hearing, the local governing body may approve an urban renewal project if it finds that (1) a workable and feasible plan exists for making available adequate housing for the persons who may be displaced by the project; (2) the urban renewal plan conforms to the comprehensive plan or parts thereof for the municipality as a whole; (3) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and (4) that a sound and adequate financial program exists for the financing of said project.

Blighted area.

Provided, that the local governing body must find the urban renewal project area to be blighted area as defined in section 11-3901.

Modification.

(e) An urban renewal project plan may be modified at any time by the local governing body: Provided, that if modified after the lease or sale by the municipality of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest may be entitled to assert.

Effect of approval.

(f) Upon the approval of an urban renewal project by a municipality, the provisions of the urban renewal

HeinOnline -- 1971 vol. I 707 1971

plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto.

Election required for financing.

(g) If the plan or any subsequent modification thereof involves financing by the issuance of general obligation bonds of the municipality as authorized in section 11-3913, subsection (c), or the financing of water or sewer improvements by the issuance of revenue bonds under the provisions of Title 11, chapter 24, or of sections 11-2217 to 11-2221, inclusive, the question of approving the plan and issuing such bonds shall be submitted to a vote of the *qualified electors* of such municipality in accordance with the provisions of sections 11-2303 to 11-2310, inclusive, at the same election and shall be approved by a majority of those *qualified electors* voting on such question. Aiding in the planning, undertaking or carrying out of an urban renewal project approved in accordance with this section shall be deemed a single purpose for the issuance of general obligation bonds, and the proceeds of such bonds authorized for any such project may be used to finance the exercise of any and all powers conferred upon the municipality by section 11-3907 which are necessary or proper to complete such project in accordance with the approved plan and any modification thereof duly adopted by the local governing body. Sections 11-2306 and 11-2307 shall not be applicable to the issuance of such bonds.

Majority vote.

General obligation bonds.

Urban renewal on yearly basis.

(h) The municipality may elect to undertake and carry out urban renewal activities on a yearly basis. In such event, the activities shall be included in the yearly budget of the municipality. Such activities need not be limited to contiguous areas; however, such activities shall be confined to the areas as outlined in the urban renewal plan as approved by the municipality in accordance with this act. The yearly activities shall constitute a part of the urban renewal plan and the municipality may elect to undertake certain yearly activities and total urban renewal projects simultaneously. The undertaking of urban renewal activities on a yearly basis shall be designated as a "neighborhood development program" and the financing of such activities shall be approved in accordance with section 11-3906, subsection (g)."

"Neighborhood development program."

Effective immediately.

Section 19. This act shall become effective upon its passage and approval.

Approved March 1, 1971

HeinOnline -- 1971 vol. I 708 1971

CHAPTER NO. 159

An Act to Submit to the Qualified Electors of Montana an Amendment to Section 2, Article IX of the Constitution of Montana Changing the Legal Voting Age to Eighteen (18) Years of Age, Changing the Period of Residence to Thirty (30) Days and Deleting the Requirement that a Voter be a Taxpayer on Certain Issues, and to Remove Obsolete Language.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 2, article IX of the constitution of the state of Montana is amended to read as follows:

Amendment of Section 2, Article IX of constitution of Montana.

"Section 2. Every person of the age of *eighteen (18)* years or over, possessing the following qualifications, shall be entitled to vote at all general elections and for all officers that now are, or hereafter may be, elective by the people, and, except as hereinafter provided, upon all questions which may be submitted to the vote of the people or electors: First, he shall be a citizen of the United States; second, he shall have resided in this state *thirty (30) days* immediately preceding the election at which he offers to vote, and in the town, county or precinct such time as may be prescribed by law. Provided that no person convicted of felony shall have the right to vote unless he has been pardoned or restored to citizenship by the governor."

Voter shall be 18 years of age or older.

Other qualifications.

Section 3. When this amendment is submitted to the electors of the state of Montana there shall be printed on the ballot the full title and section 1 of this act and the following words:

Voting.

Form of ballot.

"☐ For the above amendment.

☐ Against the above amendment."

Approved March 3, 1971

CHAPTER NO. 160

An Act Amending the Store License Laws by Deleting the Provision that All Stores May Be Listed on One Application Blank, by Providing that All Store Licenses Shall Lapse December 31 of Each Calendar Year, and by

HeinOnline -- 1971 vol. I 709 1971

Excluding Vending Machines from the Act; and Amending Sections 84-2402, 84-2404 and 84-2410, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-2402, R.C.M. 1947, is amended to read as follows:

Application to state board of equalization for license to operate store.

"84-2402. **Application and fee for license.** Any person, firm, corporation, association, copartnership or group desiring to open, establish, operate or maintain a store in the state of Montana prior to September first of that calendar year shall apply to the state board of equalization for license to do so. The application shall be made upon a

Form.

form which shall be prescribed and furnished by the state board of equalization, and shall set forth the name of the owner, manager, trustee, lessee, stockholders, receiver or other persons desiring said license; the name of such store; the location, including street number; and all such other facts as the state board of equalization may require.

Separate application for each store.

If the applicant desires to open, establish, operate or maintain more than one such store, he shall make a separate application for a license to operate, maintain, open or establish each such store.

Payment of license fees.

Each such application shall be accompanied by the license fee as prescribed in sections 84-2405, 84-2406 and 84-2407."

Amending clause.

Section 2. Section 84-2404, R.C.M. 1947, is amended to read as follows:

Licenses expire December 31.

"84-2404. **Expiration and renewal of licenses.** All licenses shall be so issued so as to expire upon the thirty-

Applications for renewal.

first day of December of each calendar year. On or before the *thirty-first day of December* of each *calendar* year, every firm, person, corporation, association, copartnership having a license, shall apply to the state board of equalization for a renewal license for the calendar year next en-

Form.

suing. All applications for a renewal shall be made upon forms which shall be prescribed and furnished by the state board of equalization.

Fee.

Each such application for a renewal license shall be accompanied by the license fee as prescribed in sections 84-2405, 84-2406 and 84-2407.

Lapse.

All licenses shall lapse *on the thirty-first day of December of* the year for which the license was issued, and if,

HeinOnline -- 1971 vol. I 710 1971

by such *thirty-first day of December,* an application for a renewal license *for the calendar year next ensuing* has not been made, the fee charged shall be double the rate prescribed in sections 84-2405, 84-2406 and 84-2407."

Double fee.

Section 3. Section 84-2410, R.C.M. 1947, is amended to read as follows:

Amending clause.

"84-2410. **"Store" defined.** The term "store" as used in this act shall be construed to mean and include any store or stores or any mercantile establishment or establishments which are owned, operated, maintained or controlled by the same person, firm, corporation, association, copartnership, or group, either domestic or foreign, in which goods, wares or merchandise of any kind are sold, either at retail or wholesale; and subject to the classification contained in sections 84-2405, 84-2406 and 84-2407. *Vending machines shall not be considered as places of business per se and are not required to be licensed under the provisions of this act.*"

"Store" defined.

Vending machines exempt.

Approved March 3, 1971

CHAPTER NO. 161

An Act Amending Section 91-4437, R.C.M. 1947, by Rescinding the Requirement that the Order Determining Inheritance Tax be Mailed to the State Treasurer.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 91-4437, R.C.M. 1947, is amended to read as follows:

Amending clause.

"91-4437. **Order determining tax — contents.** Upon the determination by the district court of the value of any estate which is taxable under the inheritance tax laws, and of the tax to which it is liable, an order shall be entered by the court determining the same, which order shall include a statement of (a) the date of death of the decedent, (b) the gross value of the real and personal property of such estate, stating the principal items thereof, (c) the deductions therefrom allowed by the court, (d) the names and relationship of the persons entitled to receive the same, with the amount received by each, (e) the rates and amounts of inheritance tax

Court shall enter order determining inheritance tax.

HeinOnline -- 1971 vol. I 711 1971

for which each such person is liable, and the total amount of tax to be paid, (f) a statement of the amount of interest or penalty due, if any. Such order shall be substantially in the form prescribed by the state board of equalization. A copy of the same shall be delivered or mailed to the county treasurer, the administrator or executor, and the state board of equalization, and no final judgment shall be entered in such estates until due proof is filed with the court that such copies have been so delivered or mailed, and receipts are filed with such court showing the payment of all such taxes, or proof is filed showing that the bond authorized by section 91-4419 has been given."

Form.

Distribution of copies.

Proof required before final judgment.

Approved March 3, 1971

CHAPTER NO. 162

An Act to Amend Section 75-8125, R.C.M. 1947, Providing for Annexation of Elementary Districts by a Community College District.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-8125, R.C.M. 1947, is amended to read as follows:

10% of electors may petition for annexation to community college district.

"75-8125. **Annexation of territory of districts to community college district.** *Whenever* ten percent (10%) of the registered electors of an elementary district or districts of one county petition the board of trustees of a community college district for annexation of the territory encompassed in such elementary school districts, the board of trustees of the community college district shall order an annexation election in the area defined by the petition. Such election shall be ordered within sixty (60) days of the receipt of the petition.

Election within 60 days.

Conduct of election.

The election shall be conducted in the proposed area for annexation in accordance with the requirements of the community college organization election except that the board of trustees of the community college shall perform the requirements of the board of education and there shall not be an election of the board of trustees of the community college.

HeinOnline -- 1971 vol. I 712 1971

The proposition on the ballot shall be as follows: Form of ballot.

"Shall school districts ..... be annexed to and become a part of the community college district of ..... Montana?

☐ For Annexation

☐ Against Annexation"

To carry, the proposals to annex must receive a majority of the total votes cast thereon. Upon receipt of the certified results of the election from the elementary districts encompassed in the proposed area to be annexed, the board of trustees of the community college district shall canvass the vote and declare the results of the election. If the annexation proposition carries, a certified copy of the canvassing resolution shall be filed in the office of the county clerk and recorder of the county encompassing the area to be annexed and upon such filing, the area to be annexed shall then become a part of the community college district." Majority vote. Canvass. Annexation effected on filing certified copy of resolution with county clerk.

Approved March 3, 1971

CHAPTER NO. 163

An Act to Amend Section 75-8117, R.C.M. 1947, Providing for Notice of Special Meetings of the Board of Trustees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-8117, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-8117. **Board of trustees meetings, quorum, travel, reimbursements and seal.** The board of trustees of the community college shall hold monthly meetings within the community college district on such day of the month the trustees may set. The president and secretary of the board or a majority of the board may also call special meetings of the board of trustees at any time and place within the community college district, if in their judgment necessity requires it. The secretary of the board shall *give each member a forty-eight (48) hour written notice of all special meetings.* Monthly meetings of trustees—community colleges. Special meetings. 48 hour notice.

HeinOnline -- 1971 vol. I 713 1971

Quorum.

A majority of the board of trustees shall constitute a quorum for the transaction of business except that no contract shall be let, teacher employed or dismissed, or bill approved unless a majority of the total board membership shall vote in favor of such action.

10c per mile.

The members of the board of trustees shall receive ten cents (10¢) per mile for the distance necessarily traveled in going to and returning from the place of the meeting and his place of residence each day that such trip is actually made.

Seal.

The board shall keep a common seal with which to attest its official acts."

Approved March 3, 1971

CHAPTER NO. 164

An Act to Amend Section 75-8112, R.C.M. 1947, Providing for the Organization of a Community College District.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-8112, R.C.M. 1947, is amended to read as follows:

"75-8112. **Determination of approval or disapproval of proposition and subsequent procedures if approved.** The proposal to organize the community college district, to carry, must receive a majority of the total number of votes cast thereon and the superintendent of public instruction, from the results so certified and attested, shall determine whether the proposal has received a majority of the votes cast thereon for each county within the proposed district and shall certify the results to the board of education. Should the certificate of the superintendent of public instruction show that the proposition to organize such community college district has received a majority of the votes cast thereon in each county within the proposed district, the board of education shall make an order declaring the community college district organized and cause a copy thereof to be recorded in the office of the county clerk and recorder in each county in which a portion of such new district is located. If the

Majority vote required to organize community college district.

Certificate of superintendent of public instruction.

Order by board of education.

Recording.

HeinOnline -- 1971 vol. I 714 1971

proposition carries, the board of education also shall determine which candidates have been elected trustees. Should the proposition to organize the community college district fail to receive a majority of the votes cast thereon, no tabulation shall be made to determine the candidates elected trustees.

Trustees.

Within thirty (30) days of the date of the organization order, the board of education shall set a date and call an organization meeting for the board of trustees of the community college district and shall notify the duly elected trustees of their membership and of the organization meeting. Such notification shall designate a temporary chairman and secretary for the purposes of organization."

Within 30 days.

Organization meeting.

Notice.

Approved March 3, 1971

CHAPTER NO. 165

An Act Authorizing the Department of Institutions to Purchase Services in Local Communities for Mentally-Retarded Persons; Providing for Nonprofit Corporate Boards to Administer Such Programs Locally; Providing for the Allocation of Appropriated Monies; Providing for Approval of Programs; Providing for the Administration by the Department of Institutions, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The legislative assembly, in recognition of the wide and varied needs of the mentally-retarded persons of this state and of the desirability of meeting these needs on a community level to the fullest extent possible, and in order to reduce the need for custodial care in state institutions, establishes by this act a community-centered program through interagency cooperation and coordination of the local agencies that offer services for mentally-retarded persons, and establishes a program to purchase or to provide services through local nonprofit corporations.

Community—centered program for mentally-retarded established.

Section 2. (1) The department of institutions is hereby authorized to purchase or to provide services for mentally-retarded persons through local nonprofit cor-

Department of institutions authorized to purchase services—local nonprofit corporation.

HeinOnline -- 1971 vol. I 715 1971

Allocation of monies.

Purchase of services.

Facilities.

Limitations on payment.

Determination of costs.

Use of funds.

porations. The department of institutions shall allocate to such local nonprofit corporations, for the purchase of services for mentally-retarded persons, such monies as shall be appropriated therefor. The corporations shall purchase services from public or private nonprofit sheltered workshops, day-care training centers, and other private and public facilities, universities, colleges, public schools, and pre-school nurseries, having approved facilities and offering an approved program. In case such approved facilities and services are not available in the community, the nonprofit corporations may develop, operate and provide such services directly. Payment for such services by the department shall be in an amount not to exceed seventy-five percent (75%) of the annual cost of the approved community-centered programs. Of the amounts appropriated by the legislature for the purchase of services for mentally-retarded persons under the provisions of this section, a sum not to exceed ten percent (10%) of such amounts appropriated may be used by the office of the director of the department of institutions for the purpose of purchasing such services without regard to matching requirements. In arriving at the cost of services, the department shall set a valuation on the personal services and materials in kind which are contributed to local agencies or institutions from which such services are purchased, but such contributions shall not exceed one-half (½) of the required community share of the cost of services. Funds allocated to the nonprofit corporations by the department of institutions shall be used only for those services that are not a responsibility of another agency.

Proposed budget.

(2) For the purposes of allocating monies under this section, the nonprofit corporations shall submit to the department a proposed budget, which budget shall include proposed expenditures, including services said corporations intend to purchase from various local agencies or institutions that offer services for mentally-retarded persons.

Authority of other governmental units to purchase services.

(3) Governmental units, including but not limited to counties, municipalities, school districts, or state institutions of higher learning are hereby authorized at their own expense, to purchase services or to furnish money, materials and services for mentally-retarded persons, through such nonprofit corporations.

HeinOnline -- 1971 vol. I 716 1971

Director shall consider factors.

Section 3. (1) In approving or rejecting community-centered programs for the purchase of services to mentally-retarded persons, the director of the department of institutions shall consider the following factors:

Existing facilities.

(A) The adequacy and utilization of existing facilities and programs in the community, such as public and private nonprofit sheltered workshops, public school programs, pre-school nurseries, and day care centers, and universities and colleges;

State services.

(B) The adequacy of participation by state services, including but not limited to public welfare, public health, rehabilitation and education;

Community interest.

(C) General community interest and participation;

Programs.

(D) The establishment of programs for the prevention of institutionalization, and habilitation when they do not already exist.

Administration requirements.

(2) The director shall require the following in the community administration of this program:

Board of directors.

(A) Each community-centered program shall be under the control and direction of a board of directors or trustees of a corporation not for profit.

Qualifications.

(B) The members of the board of directors or trustees shall be representative of, but not limited to, public, private or voluntary agencies, including political subdivisions of state, which participate in a program for mentally-retarded persons in the community.

Annual application.

(C) The community incorporated board shall make application annually to the department of institutions to participate in the state program for mentally-retarded persons, and only programs shall be approved which meet the requirements set forth in subsection (1) of this section.

Powers of director.

Section 4. The director of the department of institutions shall have power to adopt reasonable rules and regulations to govern the administrative proceedings and procedures necessary to carry out the provisions of this act. Such rules and regulations may be amended or revoked from time to time. The director is also authorized to promulgate standards for and supervise programs supported under this act, and to prescribe the form of

HeinOnline -- 1971 vol. I 717 1971

reports, budgets, holdings of meetings, investigations and evaluations necessarily incident to the administration of this act.

Effective immediately.

Section 5. This act shall be effective upon passage and approval.

Approved March 3, 1971

CHAPTER NO. 166

An Act to Amend Section 11-3116, R.C.M. 1947, and Section 11-3229, R.C.M. 1947, Providing Penalties for Giving False Information Concerning Qualifications as a Voter for City Elections Under a Commission or Commission-Manager Form of Government, by Changing the Age of a Qualified Voter from Twenty-one (21) to the Minimum Age Provided for Voting by the Constitution of the State of Montana and Referring to the Residency Requirements, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-3116, R.C.M. 1947, is amended to read as follows:

Bribery of electors.

"11-3116. **Bribery — false answers concerning qualifications of elector — voting by disqualified person.** Any person offering to give a bribe, either in money or other consideration, to any elector, for the purpose of influencing his vote at any election provided in this act, or any elector entitled to vote at any such election receiving and accepting such bribe or other consideration; any person who agrees, by promise or written statement, that he will do, or will not do, any particular act or acts, for the purpose of influencing the vote of any elector or electors at any election provided in this act; any person making false answer to any of the provisions of this act relative to his qualifications to vote at such election; any person willfully voting or offering to vote at such election *who has not met the residency requirements for voting as provided by the constitution of the state of Montana, or who is not of the minimum age provided by the constitution of the state of Montana,* or is not a citizen of the United States, or knowing himself not to be a qualified

Influencing votes.

False answers to voter qualifications.

Residency.

Age.

Not a qualified elector.

HeinOnline -- 1971 vol. I 718 1971

elector of such precinct where he offers to vote; any person knowingly procuring, aiding, or abetting any violation hereof, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not less than one hundred dollars ($100) nor more than five hundred dollars ($500); and be imprisoned in the county jail not less than ten (10) nor more than ninety (90) days."

Aiding violation. Misdemeanor. Penalties.

Section 2. Section 11-3229, R.C.M. 1947, is amended to read as follows:

Amending clause.

"11-3229. **Bribery — false answers concerning qualifications of elector — voting by disqualified person.** Any person offering to give a bribe, either in money or other consideration, to any elector for the purpose of influencing his vote at any election provided in this act, or any elector entitled to vote at any such election receiving and accepting such bribe or other consideration; any person who agrees, by promise or written statement, that he will do, or will not do, any particular act or acts, for the purpose of influencing the vote of any elector or electors at any election provided in this act; any person making false answer to any of the provisions of this act relative to his qualifications to vote at such election; any person wilfully voting or offering to vote at such election, *who has not met the residency requirement of the constitution of the state of Montana,* or is not a citizen of the United States, or knowing himself not to be a qualified elector of such precinct where he offers to vote; any person knowingly procuring, aiding, or abetting any violation hereof, shall be deemed quilty of a misdemeanor, and, upon conviction, shall be fined a sum of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or be imprisoned in the county jail not less than ten (10) nor more than ninety (90) days, or both such fine and imprisonment."

Bribery of electors. Influencing of votes. False answers to voter qualifications. Residency. Not a qualified elector. Aiding violation. Misdemeanor. Penalties.

Section 3. This act is effective on passage and approval.

Effective immediately.

Approved March 3, 1971

HeinOnline -- 1971 vol. I 719 1971

CHAPTER NO. 167

An Act to Amend Section 40-3729, R.C.M. 1947, Pertaining to the Assignment of Insurance Policies; Providing for the Assignment of the Incidents of Ownership of Group Insurance Certificates.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 40-3729, R.C.M. 1947, is amended to read as follows:

Assignment of insurance policies.

"40-3729. **Assignment of policies.** A policy, *or group certificate issued thereunder,* may be assignable or not assignable, as provided by its terms. Subject to its terms relating to the assignability, any life or disability policy, *or group certificate under either,* whether heretofore or hereafter issued, under the terms of which the beneficiary may be changed upon the sole request of the insured *or owner,* may be assigned either by pledge or transfer of title, by an assignment executed by the insured *or owner,* alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. *An assignment valid hereunder may transfer to the assignee all the rights, privileges, and incidents of ownership of the assignor in the policy or group certificate, including, but not limited to the rights to designate beneficiaries and of a group certificate holder to have an individual policy issued in accordance with sections 40-3918 and 40-3919.* Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge, or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment; *provided, however, that the insurer shall not be prejudiced by any payment made or action taken inconsistent with the terms of any assignment before the insurer has received and had reasonable time to act on written notice of such assignment. This section acknowledges, declares and codifies the existing right of assignment of interests under insurance policies. An assignment otherwise valid shall not be invalid because it was made prior to the effective date of this section."*

Form of assignment.

Transfer of rights.

Insurer may deal with assignee.

Notice.

Insurer shall not be prejudiced.

Validity.

Approved March 3, 1971

HeinOnline -- 1971 vol. I 720 1971

CHAPTER NO. 168

An Act to Omit the Age Requirement as Qualification for Professional Licenses or Certificates; Amending Sections 66-603, 66-803, 66-1027, 66-1506, 66-1819, 66-1820, 66-2204, 66-2502, 66-2708, 66-3103, 93-2001.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-603, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-603. **Chiropody examiners — examinations — qualifications — schools — fees — nonresident practitioners.** (1) There is hereby created a state board of chiropody medical examiners consisting of one physician to be selected at its annual meeting by the state board of medical examiners from its membership, the secretary of the state board of medical examiners, and two (2) chiropodists to be selected and to serve as hereinafter provided. The Montana association of chiropodists shall select six (6) chiropodists from its membership, who shall be residents of and shall have engaged in the active practice of chiropody for at least two (2) years in this state, and shall be of high integrity and ability. Within thirty (30) days from and after the selection of said six (6) chiropodists as aforesaid, the governor of Montana shall appoint three (3) of their number and so designate the term of office of each, that the term of office of one member shall expire in one (1) year, one in two (2) years, and one in three (3) years, from date of appointment; annually thereafter, the governor shall appoint one member who shall be a licensed chiropodist possessing the qualifications hereinbefore mentioned who shall serve for a period of three (3) years or until his successor shall have been appointed by the governor. Should any vacancy arise on aforesaid board before the expiration of the term of office of any of the chiropodist members of said board, such vacancy shall be filled by appointment by the governor within thirty (30) days, such appointee to possess the qualifications heretofore stated, and to be selected from those remaining of the said six (6) chiropodists theretofore selected by the Montana association of chiropodists unless said number of selected chiropodists shall have been exhausted.

State board of chiropody medical examiners created—composition.

Terms of office.

Vacancies.

(2) Examinations shall be held semiannually at such places and time as the state board of chiropody medical

Semiannual examinations.

HeinOnline -- 1971 vol. I 721 1971

examiners shall direct. On and after the date of the taking effect of this act, all persons who may wish to begin practice of chiropody in this state, shall make application upon a blank form authorized and furnished by said state board of medical examiners, for a license to practice chiropody. This application shall be granted to such applicants, after they shall have furnished satisfactory proof of good moral character, of having attained high school graduation or its equivalent and of having at least two (2) years of instruction in an accredited school of chiropody recognized as being in good standing by the Montana board of chiropody medical examiners, but after June 1st, 1941, no school of chiropody shall be accredited by said board which does not require for graduation four (4) years of instruction in the study of chiropody. All chiropodists, actively engaged in the practice of chiropody one (1) or more years and licensed by the state board of medical examiners, prior to April 1st, 1939, whether meeting these requirements or not, shall, upon furnishing proof thereof to said board of chiropody medical examiners be entitled to a license without examination. A license without written examination may be issued to chiropodists of other states maintaining equal statutory requirements for the practice of chiropody and extending the same reciprocal privilege to this state provided further that they have had a valid license for at least two (2) years in that state prior to filing for reciprocal privilege, and by payment of fifty dollars ($50) to the secretary of the board of medical examiners."

Application for license.

Proof of qualification.

Reciprocity.

Amending clause.

Section 2. Section 66-803, R.C.M. 1947, is amended to read as follows:

Cosmetology—practicing or teaching.

"66-803. **Requirements for practicing or teaching cosmetology or operating a school of cosmetology.** Before anyone may practice or teach cosmetology, or any person, firm, or copartnership, or corporation may operate a school of cosmetology, such person, firm, or copartnership or corporation must obtain a license of certificate of registration from the state board as hereinafter provided. To be eligible to take the examination to practice cosmetology the applicant must not be less than eighteen (18) years of age and a graduate of the eighth grade school and must be of good moral character. Such applicant must have completed a continuous course of study of at least two thousand (2,000) hours in a reg-

License—certificate of registration.

Eligibility.

HeinOnline -- 1971 vol. I 722 1971

istered beauty school, which course of study has been distributed over a period of not less than ten (10) months or more than twelve (12) months, and has received a diploma from said beauty school, or must have completed the course of study in cosmetology prescribed by the state board of education, ex officio regents of the university of Montana, for Northern Montana college. Such person so qualified must file with the secretary of the state board, a written application to take such examination accompanied by a health certificate issued by a registered, licensed physician on a form supplied by the state board, and shall deposit with the secretary of the said board, the required examination fee and pass an examination as to his or her fitness to practice cosmetology.

Application to take examination.

Health certificate.

Fee.

Before an applicant may take an examination to obtain a license as a teacher of cosmetology, he must:

Qualifications of applicant for teacher license examination.

(1) Be a graduate of high school or possess an equivalent of a high school diploma recognized by the state superintendent of public instruction.

(2) Meet the following requirements:

(a) He must have an operator's license to practice cosmetology issued by the state of Montana, been actively engaged as a beauty operator for one (1) continuous year immediately prior to taking the examination, and have received a diploma from a registered school of cosmetology approved by the board certifying satisfactory completion of five hundred (500) hours of student teacher training; or

(b) He must have been actively engaged as a beauty operator for three (3) continuous years immediately prior to taking the teachers' examination.

The applicant must qualify by filing an application as prescribed by the board and by taking and passing the examination prescribed and given by the board. The license must be renewed annually as provided in section 66-816, R.C.M. 1947.

Application.

Annual license renewal.

Anyone failing twice to pass an examination may not apply to retake the examination:

Failing twice.

(1) Sooner than six (6) months after the date of the second failure; or

HeinOnline -- 1971 vol. I 723 1971

(2) Until he has taken two hundred (200) hours additional teacher training at a registered school of cosmetology approved by the board.

Temporary license—fee $2.

Provided, further, the board may grant to graduates of registered schools of this state upon the payment of a fee of two dollars ($2) a temporary license authorizing such graduates to practice as an operator under the supervision of a licensed cosmetologist, in the practice of hairdressing and beauty culture, for a period of not to exceed ninety (90) days, or until the next examination is held by the board. No such temporary license shall be issued except upon the presentation by the applicant of a certificate of graduation from a registered school of the state of Montana, and such temporary licenses shall not be renewable.

Valid for 90 days.

Certificate of graduation.

Certificate required to operate school of cosmetology.

No person, firm or copartnership, or corporation shall operate a school for the purpose of teaching cosmetology for compensation unless a certificate of registration has been first obtained from the state board. Application for such certificate shall be filed with such board on such form as the board shall prescribe.

Application.

Limitations.

No teacher or student teacher shall be permitted to practice cosmetology on the public in a school. Any school that enrolls student teachers for a course of student teacher training shall not have at any one (1) time more than one (1) student teacher for each full-time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time teachers.

Teacher training.

Qualifications for certificate of registration.

No school for teaching cosmetology shall be granted a certificate of registration unless it complies, or can comply, with the following requirements:

Licensed teacher.

(1) Have in its employ a licensed teacher who shall be, at all times, in the immediate supervision of the work of said school, or such other teachers as the state board may determine is necessary for the proper conduct of said school. Provided, however, that there shall not be more than twenty-five (25) students to each such teacher.

Equipment.

(2) It shall possess such apparatus and equipment as the state board may determine is necessary for the ready and full teaching of all subjects or practices of cosmetology.

HeinOnline -- 1971 vol. I 724 1971

(3) It shall maintain a school term of not less than two thousand (2,000) hours extending over a period of ten (10) consecutive months, and shall prescribe a course of practical training and technical instructions equal to the requirements for state board examinations, which course of training and technical instruction shall be prescribed by the state board. School term. Instruction.

(4) It shall keep a daily record of the attendance of each student, establish grades, and hold examinations before issuing diplomas. Records.

(5) No owner, or person in charge of a school of cosmetology shall permit any person to sleep in or use for residential purposes, or any other purpose which would tend to make the room unsanitary, any room used, wholly or in part for a school of cosmetology. Sanitation.

(6) Certificates or registration may be refused, revoked, or suspended, as provided in section 66-811. Refusal or revocation.

(7) The state board shall have the power to prescribe such further rules and regulations as they deem necessary for the proper conduct of schools of cosmetology. Rules.

(8) The state board shall require of the person, firm, copartnership, or corporation operating a school to furnish a good and sufficient bond in the amount of five thousand dollars ($5,000) and in a form and manner to be prescribed by the board. Performance bond.

(9) No professional beauty shop shall be operated in connection with any school of cosmetology. No beauty shop.

(10) The board may, by ruling, establish suitable curriculum for teachers' training in registered schools of cosmetology. Curriculum.

If a licensee shall contract a communicable disease, endangering the public health, the board shall, upon proof of same, cancel or suspend his or her license until such time as said licensee can secure a physician's certificate showing that such licensee is free from a communicable disease." Communicable diseases.

Section 3. Section 66-1027, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-1027. **Qualifications for licensure — limitations.**

HeinOnline -- 1971 vol. I 725 1971

Qualifications for license to practice medicine.

(1) No person shall be granted a physician's certificate to practice medicine in the state of Montana unless he:

(a) is a citizen of the United States;

(b) is of good moral character, as determined by the board;

(c) is a graduate of an approved medical school as defined in section 66-1028.

(d) has completed an approved internship of at least one (1) year or, in the opinion of the board, has had experience or training which is at least the equivalent of one (1) year internship as herein defined;

(e) has made a personal appearance before the board. The board may grant such license subject to terms of probation or other conditions or limitations set by the board or may refuse to grant a license to any such person if he has committed any of the acts or offenses herein defined as unprofessional conduct, or is otherwise unqualified.

Temporary licenses.

(2) No person shall be granted a temporary license to practice medicine in the state of Montana unless he:

(a) is a citizen of the United States, or has filed a properly executed declaration of intention to become a citizen of the United States;

(b) is of good moral character, as determined by the board;

(c) is a graduate of an approved medical school as defined in section 66-1028;

(d) has completed an approved internship of at least one (1) year or, in the opinion of the board, has had experience or training which is, at least, the equivalent of one (1) year internship as herein defined;

(e) has made a personal appearance before at least one (1) member of the board; and

(f) has been approved for temporary licensure by the executive secretary of the board; and

(g) a temporary license may be issued to a physician employed by a public institution who is practicing under the direction of a licensed physician. The board may grant

HeinOnline -- 1971 vol. I 726 1971

such temporary license subject to terms of probation or other conditions or limitations set by the board or may refuse to grant a license to any such person if he has committed any of the acts or offenses herein defined as unprofessional conduct. The issuance of a temporary certificate imposes no future obligation or duty on the part of the board to grant full licensure or to renew or extend such temporary license.

The board may, in any case of an applicant for a temporary certificate, require a written, oral or practical examination of said applicant." Examination.

Section 4. Section 66-1506, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-1506. **Examination of applicants for registration — fees — certificates.** (a) The board shall meet at least once a year to examine applicants for registration as pharmacists and assistant pharmacists and to transact its other business, giving reasonable notice of all examinations by mail, to all known applicants therefor. The secretary shall record the names of all persons examined by the board together with the grounds upon which the right of each to examination was claimed and also the names of all persons registered by examination or otherwise. The fee for any examination shall be fifteen dollars ($15) which fee may, in the discretion of the board, be returned to applicants not taking the examination. Annual examination. Pharmacists. Notice. Fee $15.

(b) Upon again making payment of such fee any applicant who fails may be entitled to take the next succeeding examination free of charge.

(c) Fees for registration by reciprocity shall be fifty dollars ($50). Reciprocity fee $50.

Qualifications for examination. To be entitled to examination by the board as a pharmacist, the applicant shall be a citizen of the United States, of good moral character, and shall be a graduate of the school of pharmacy of the state University of Montana or of a college or school of pharmacy recognized and approved by, or a member, of the American association of colleges of pharmacy, but such applicant shall not receive a license until he has at least one (1) year of practical experience in a pharmacy which has been approved by the board Qualifications of applicant. One year experience.

HeinOnline -- 1971 vol. I 727 1971

Assistant pharmacist license.

of pharmacy. During this year, provided applicant has passed such examination, he shall be licensed as an assistant pharmacist only.

Reciprocal registration.

Reciprocity. The board may, in its discretion, grant registration without examination, to any pharmacist licensed by the board of pharmacy or a similar board of another state which accords similar recognition to licensees of this state, provided the requirements for registration in such other state are, in the opinion of the board, equivalent to the requirements herein provided. Every person licensed and registered under this act shall receive from the state board of pharmacy an appropriate

Certificate.

certificate attesting the fact as it may be which certificate shall be conspicuously displayed at all times in his place of business. If the holder be entitled to manage or conduct a pharmacy in the state for himself or another, the fact shall be set forth in the certificate.

Exemptions.

Pharmacists or assistants not required to be examined or to register anew under this act. Persons, who, at the time of the enactment of this law, hold certificates of registration as pharmacists, or assistant pharmacists, granted by the state board of pharmacy of this state, shall not be required to submit to examinations or to register anew under this law, but all such persons shall

Annual renewal.

apply for and secure annual renewals of their present registration as provided in this act, and in all other respects be amendable to and governed by the provisions of this act and the rules and regulations of the board from time to time promulgated under this act."

Amending clause.

Section 5. Section 66-1819, R.C.M. 1947, is amended to read as follows:

Qualifications for certificate.

"66-1819. **Certificates of certified public accountants.** A certificate shall be issued by the board to any person:

Certified public accountants.

(a) Who is (1) a citizen of the United States or who has duly declared his intention of becoming a citizen, (2) is a resident of this state or has a place of business herein or, as an employee, is regularly employed herein, and *(3)* is of good moral character;

(b) Who shall have successfully passed the certified public accountants' examination; and

(c) Who meets the requirements of education and ex-

HeinOnline -- 1971 vol. I 728 1971

perience set forth in sections 66-1822, 66-1823, 66-1824 and 66-1825."

Section 6. Section 66-1820, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-1820. **Registration of public accountants.** Registration as a public accountant shall be available to any person: Qualifications for registration—public accountants.

(a) Who is (1) a citizen of the United States or who has duly declared his intention of becoming a citizen, (2) is a resident of this state or has a place of business herein or, as an employee, is regularly employed herein, and *(3)* is of good moral character;

(b) Who meets the requirements of education and experience set forth in sections 66-1822, 66-1823, 66-1824 and 66-1825; and

(c) Who fulfills and complies with the qualifications and requirements set forth in any one of the subdivisions of section 66-1821."

Section 7. Section 66-2204, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-2204. **Applications for license to practice — examinations — fees.** Any citizen of the United States desiring to begin the practice of veterinary medicine or veterinary surgery in the state of Montana, or who shall desire to hold himself or herself out to the public as a practitioner of veterinary medicine or veterinary surgery, except as provided in section 66-2211, shall make application to said board of examiners for license so to do. Such application shall be upon a form furnished by said board, and shall be accompanied by satisfactory evidence of the good moral character of the applicant, and shall present evidence of his having graduated in and received a degree from a legally authorized veterinary medical school having educational standards equal to those approved by the American veterinary medical association. On application, a photostatic copy of the diploma of said applicant shall be submitted to said board for inspection and verification, and such photostatic copy shall be and remain the property of the board. Every person applying to said board for license to practice shall pay to the board the fee of twenty-five dollars Practice of veterinary medicine. Application for license. Form. Evidence. Copy of diploma. Fee $25.

HeinOnline -- 1971 vol. I 729 1971

Determination by board of examiners.

($25), which fee shall be in no case refunded. Said board shall by means of examination, either oral or written or practical, or such combination of oral or written or practical, as the board may determine, ascertain the professional qualifications for license of all applicants under this act, except that investigation under reciprocity arrangements may replace examination for licensees from other states as provided by section 66-2208, and the board shall issue such license to all who are found upon such examination or investigation to be in the judgment of said board competent to practice, and no such license shall be issued to any person who is not found by such examination or investigation to be competent.

Reciprocity.

Board shall issue license on finding competence to practice.

Examinations in January and June of each year.

Such examination shall be held in January and June of each year at a time and place or places specified by said board. Such examination shall cover theory and practice, materia medica and therapeutics, livestock sanitation, surgery, and communicable diseases and such other subjects chosen by the board as are ordinarily included in the curriculum of a legally chartered school of veterinary medicine recognized and approved by the American veterinary medical association.

Preservation of applications.

Said board shall consecutively number all applications received and note upon each the disposition made of it and preserve same for reference, and shall number consecutively all licenses issued; provided, that veterinarians who are at the time of the passage and approval of this act licensed and registered to practice veterinary medicine in the state of Montana, shall be entitled to a license without such examination.

Exemptions.

Grade of 70% required.

All applicants must achieve a grade of seventy percent (70%) in all subjects in order to obtain a license. An applicant who has failed an examination may apply to be re-examined at any subsequent examination, shall pay another application fee in the amount of twenty-five dollars ($25), and shall take another complete examination in all subjects.

Temporary permit.

An applicant for examination hereunder may in the discretion of the board be given a temporary permit to practice veterinary medicine prior to taking the examination, provided such applicant is employed by and working under the supervision of and in the same office

HeinOnline -- 1971 vol. I 730 1971

with a veterinarian licensed under this act; such temporary permit shall be valid only until the date of the next succeeding examination, and no longer, and under no circumstances shall the board issue a second temporary permit to the same person. A temporary permit shall not be issued to a person who has failed an examination given by the board." Validity.

Section 8. Section 66-2502, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-2502. **Qualifications of applicants for license.** To be eligible for a license from the board as a physical therapist an applicant must: Qualifications for license—physical therapists.

(1) Be of good moral character;

(2) Have been graduated from a school of physical therapy approved by the council of medical education and hospitals of the American Medical Association;

(3) Either (a) pass to the satisfaction of the board an examination conducted by it to determine his fitness for practice as a physical therapist; or, (b) be entitled to a license without examination as provided by section 66-2505 or 66-2506."

Section 9. Section 66-2708, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-2708. **Embalming and mortuary science — qualifications for mortician's license.** The practice of embalming or mortuary science is prohibited by anyone who does not hold a mortician's license issued by the board. To qualify for a mortician's license a person must Mortician's license required. Qualifications.

(1) Be of good moral character.

(2) Have graduated from an accredited college of mortuary science, and have satisfactorily completed two (2) academic years at an accredited college or university. This subsection shall not apply to a person who is enrolled in an accredited college of mortuary science on the effective date of this act.

(3) Pass an examination prescribed by the board.

(4) Serve a one (1) year internship under the supervision of a mortician in a licensed mortuary in Montana." Internship.

HeinOnline -- 1971 vol. I 731 1971

Amending clause.

Section 10. Section 66-3103, R.C.M. 1947, is amended to read as follows:

Nursing home administrators.

"66-3103. **Qualifications for licensure.** The board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators. No license shall be issued to a person as a nursing home administrator unless:

Qualifications for license.

(a) He is of good character and of sound physical and mental health; and

(b) Has satisfactorily completed a course of instruction and training prescribed by the board, which course shall be so designed as to content and so administered as to present sufficient knowledge of the needs properly to be served by nursing homes; laws governing the operation of nursing homes and the protection of the interests of patients therein; and the elements of good nursing home administration; or have presented evidence satisfactory to the board of sufficient education, training or experience in the foregoing fields to administer, supervise and manage a nursing home; and

(c) Has passed an examination administered by the board designed to test for competence in the subject matters referred to in subsection (b) hereof;

License by waiver.

Provided, however, that persons meeting the standards of good character and sound physical and mental health who have been approved by the board as an "administrator" and are serving in such capacity on the effective date of this act, and who have served in this capacity continuously for at least one (1) year immediately preceding, may be granted a license as a "nursing home administrator" by waiver. All other persons applying for a license after the effective date of this act must meet the conditions and requirements as may be prescribed by the

Valid for 2 years.

board. A waiver may be granted for a period of two (2) years after the effective date of this act, or until June 30, 1972, whichever is earlier, to allow an individual to meet the requirements as determined by this board. The

Minimum standards.

minimum standards for qualification established by said board shall comply with the requirements, if any, set forth in Title XIX of the Social Security Act, as amended 1967 (P.L. 90-248)."

HeinOnline -- 1971 vol. I 732 1971

Section 11. Section 93-2001, R.C.M. 1947, is amended to read as follows: Amending clause.

"93-2001. **Who may be admitted as attorneys.** Any citizen or person, resident of this state, who has bona fide declared his or her intention to become a citizen in the manner required by law, of good moral character, and who possesses the necessary qualifications of learning and ability, is entitled to admission as attorney and counselor in all the courts of this state. All persons are attorneys of the supreme court who are entitled to practice in the supreme court when this code takes effect." Qualifications for admission as attorneys in courts of this state.

Approved March 3, 1971

CHAPTER NO. 169

An Act to Amend Section 87-103, R.C.M. 1947, Which Section is a Part of the Unemployment Compensation Law, by Providing for the Weekly Benefit Amount to Equal One Twenty-sixth (1/26) of the High-Quarter Earnings; Fixing the Minimum Weekly Benefit Amount at Twelve Dollars ($12); Increasing the Maximum Weekly Benefit Amount to Forty-Seven Dollars ($47); Establishing Effective Dates; Increasing the Maximum Weekly Benefit Amount to Fifty-two Dollars ($52) Effective January 1, 1972; Adjusting the Minimum Qualifying Wage for Individuals with High-quarter Wages in Excess of Wages Necessary to Qualify for the Maximum Weekly Benefit Amount; Deleting Unnecessary Language.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 87-103, R.C.M. 1947, is amended to read as follows: Amending clause.

"87-103. **Benefits.**

(a) **Payment of benefits.** Benefits are payable from the fund to any individual who is or becomes unemployed and eligible for benefits as is herein prescribed; provided, however, that wages earned for services performed as an employee representative as defined in the Railroad Unemployment Insurance Act (52 Stat. 1094), or for services performed for an employer, as defined in said Benefits for unemployed.

Wages not included for determination of weekly benefit amount.

HeinOnline -- 1971 vol. I 733 1971

act, shall not be included for the purposes of determining eligibility or weekly benefit amount under this act.

Payment.

All benefits shall be paid through public employment offices in the state of Montana, or other agencies designated by the commission, in accordance with such rules and regulations as the commission may prescribe.

Computation of benefits.

(b) **Weekly benefit amount.** *Effective July 1, 1971, the maximum weekly benefit amount shall be forty-seven dollars ($47) and the minimum weekly benefit amount shall be twelve dollars ($12).*

Effective January 1, 1972, the maximum weekly benefit amount shall be fifty-two dollars ($52).

Any individual whose benefit year begins on or after July 1, 1971, shall receive as his weekly benefit amount, an amount equal to one twenty-sixth (1/26) of his total wages for insured work paid during the calendar quarter of his base period in which his wages were highest. Such weekly benefit amount, if not a multiple of one dollar ($1), shall be rounded to the nearest multiple of one dollar ($1).

Qualifying wages.

(c) **Qualifying wages.** To qualify as an insured worker an individual must have been paid wages for insured work in his base period totaling not less than one and one-half (1½) times his high-quarter wages during his base period including the high-quarter.

Records.

(d) **Wage record.** The commission shall maintain a record of the wages paid to an individual in accordance with wages earned by him for employment by employers during each quarter.

Payment of accrued benefits by death.

(e) **Benefits.** All accrued benefits due and payable at the time of death to any deceased claimant shall be paid to the surviving spouse, or if there be no surviving spouse, then to the surviving children, or if there be no surviving children, then to the next of kin, without the necessity of any recipient obtaining letters testamentary or of administration."

Approved March 3, 1971

HeinOnline -- 1971 vol. I 734 1971

CHAPTER NO. 170

An Act to Provide for the Support of the Government of Montana for the Years 1971 and 1972, Providing a Severability Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following tax levies for state purposes are hereby made upon all property in the state of Montana, subject to taxation, for the year 1971, as ascertained by taking the percentage of the true and full value provided by law for purposes of taxation, to wit: Tax levies for state purposes for 1971.

(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may find necessary, under the provisions of section 84-713, R.C.M. 1947. General fund.

(b) For the Montana state hospital for the insane bond interest and redemption fund created under Referendum Measure No. 57, one half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 57. State hospital for insane.

(c) For the Montana state training school bond interest and redemption fund created under Referendum Measure No. 58, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 58. State training school.

(d) For the university millage fund, to provide funds for the support of the Montana university system, as provided in Referendum Measure No. 65 and passed by vote of the people at the general election held November 5, 1968, six (6) mills, or so much thereof as may be necessary to raise the amount appropriated by the legislative assembly from the university millage fund for support of the units of the Montana university system. University millage fund.

Section 2. The following tax levies for state purposes are hereby made upon all property in the state of Montana, subject to taxation, for the year 1972, as ascertained by taking the percentage of the true and full value provided by law for the purposes of taxation, to wit: Tax levies for state purposes for 1972.

(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may General fund.

HeinOnline -- 1971 vol. I 735 1971

find necessary under the provisions of section 84-713, R.C.M. 1947.

State hospital for insane.

(b) For the Montana state hospital for the insane bond interest and redemption fund created under Referendum Measure No. 57, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 57.

State training school.

(c) For the Montana state training school bond interest and redemption fund created under Referendum Measure No. 58, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under provisions of Referendum Measure No. 58.

University millage fund.

(d) For the university millage fund, to provide funds for the support of the Montana university system, as provided in Referendum Measure No. 65 and passed by vote of the people at the general election held November 5, 1968, six (6) mills, or so much thereof as may be necessary to raise the amount appropriated by the legislative assembly from the university millage fund for support of the units of the Montana university system.

Severability clause.

Section 3. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1971

CHAPTER NO. 171

An Act to Revise the Montana Food, Drug, and Cosmetic Act to Include Fair Packaging and Labeling: Amending Sections 27-702, 27-703 and 27-721, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 27-702, R.C.M., 1947 is amended to read as follows:

Definitions.

"27-702. **Definition of terms.** For the purpose of this act—

HeinOnline -- 1971 vol. I 736 1971

(a) The term "state board" means the Montana state board of health. "State board."

(b) The term "department" means the Montana state department of health. "Department."

(c) The term "person" includes individual, partnership, corporation and association. "Person."

(d) The term "food" means "Food."

(1) articles used for food or drink for man or other animals,

(2) chewing gum, and

(3) articles used for components of any such article.

(e) The term "drug" means "Drug."

(1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and

(2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and

(3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

(4) articles intended for use as a component of any article specified in clause (1), (2) or (3); but does not include devices or their components, parts or accessories.

(f) The term "device" (except when used in paragraph (1) of this section and in sections 27-703 (j), 27-711 (f), 27-715 (c) and (o) and 27-719 (c) means instruments, apparatus and contrivances, including their components, parts and accessories, intended "Device."

(1) for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or

(2) to affect the structure or any function of the body of man or other animals.

(g) The term "cosmetic" means "Cosmetic."

(1) articles intended to be rubbed, poured, sprinkled,

HeinOnline -- 1971 vol. I 737 1971

or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance, and

(2) articles intended for use as a component of any such articles, except that such term shall not include soap.

"Official compendium."

(h) The term "official compendium" means the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

"Label."

(i) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this act that any word, statement or other information appearing on the label shall not be considered to be complied with unless such word, statement or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

"Immediate container."

(j) The term "immediate container" does not include package liners.

"Labeling."

(k) The term "labeling" means all labels and other written, printed or graphic matter

(1) upon an article or any of its containers or wrappers, or

(2) accompanying such article.

Determination of misleading labeling or advertisement.

(1) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the

HeinOnline -- 1971 vol. I 738 1971

labeling or advertisement thereof or under such conditions of use as are customary or usual.

"Advertisement" defined.

(m) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices or cosmetics.

Representation of a drug.

(n) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

"New drug" defined.

(o) The term "new drug" means

(1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling thereof; or

(2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

Application of term "contaminated with filth."

(p) The term "contaminated with filth" applies to any food, drug, device or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

Selling defined.

(q) The provisions of this act regarding the selling of food, drugs, devices or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession and holding of any such article for sale; and the sale, dispensing and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug or cosmetic establishment.

"Pesticide chemical."

(r) The term "pesticide chemical" means any substance which, alone, in chemical combination, or in

HeinOnline -- 1971 vol. I 739 1971

formulation with one or more other substances is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C., secs. 135-135k as now enacted or as hereafter amended), and which is used in the production, storage or transportation of raw agricultural commodities.

"Raw agricultural commodity."

(s) The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.

"Food additive."

(t) The term "food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

(1) a pesticide chemical in or on a raw agricultural commodity; or

(2) a pesticide chemical to the extent that it is intended for use or is used in the production, storage or transportation of any raw agricultural commodity; or

(3) a color additive; or

(4) any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the Federal Act; the Poultry Products Inspection Act (21 U.S.C. 451 and the following) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 and the following).

(u) (Color and color additive)

HeinOnline -- 1971 vol. I 740 1971

(1) The term "color additive" means a material which — "Color additive."

(A) is a dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral or other source, or

(B) when added or applied to a food, drug or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting color thereto; except that such term does not include any material which has been or hereafter is exempted under the Federal Act.

(2) The term "color" includes black, white and intermediate grays. "Color."

(3) Nothing in clause (1) of this subsection (u) shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding or otherwise affecting, directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(v) The term "Federal Act" means the Federal Food, Drug and Cosmetic Act, as amended (Title 21 U.S.C. 301 et seq.). "Federal Act."

(w) The term "counterfeit drug" means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed or distributed such drug and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, such other drug manufacturer, processor, packer, or distributor. "Counterfeit drug."

(x) The term "consumer commodity", except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic as those terms are defined by this act or by the Federal Act and regulations pursuant thereto. Such term does not include — "Consumer commodity."

HeinOnline -- 1971 vol. I 741 1971

(1) any tobacco or tobacco product;

(2) any commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the Virus-Serum Toxin Act;

(3) any drug subject to the provisions of section 17 (a) (B) or 16 (k) of this act, or section 503 (b) (1) or 506 of the Federal Act;

(4) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C., et seq.); or

(5) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551-1610).

"Principal display panel."

(y) The term "principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

"Package."

(z) The term "package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include —

Exceptions.

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity."

Amending clause.

Section 2. Section 27-703, R.C.M., 1947, is amended to read as follows:

Prohibited acts enumerated.

"27-703. **Prohibited acts enumerated.** The following acts and the causing thereof within the state of Montana are hereby prohibited:

(a) The manufacture, sale or delivery, holding or offering for sale of any food, drug, device or cosmetic that is adulterated or misbranded.

HeinOnline -- 1971 vol. I 742 1971

(b) The adulteration or misbranding of any food, drug, device or cosmetic.

(c) The receipt in commerce of any food, drug, device or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The sale, delivery for sale, holding for sale or offering for sale of any article in violation of section 27-712 or 27-717.

(e) The dissemination of any false advertisement.

(f) The refusal to permit entry or inspection or to permit the taking of a sample, as authorized by section 27-722.

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same affect (effect) signed by, and containing the name and address of the person residing in the state of Montana from whom he received in good faith the food, drug, device or cosmetic.

(h) The removal or disposal of a detained or embargoed article in violation of section 27-706.

(i) The alteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device or cosmetic, if such act is done while such article is held for sale and results in such article being adulterated or misbranded.

(j) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label or other identification device authorized or required by regulations promulgated under the provisions of this act or of the Federal Act.

(k) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 27-717, or that such drug complies with the provisions of such section.

(l) In the case of a prescription drug distributed or offered for sale in this state, the failure of the manu-

HeinOnline -- 1971 vol. I 743 1971

facturer, packer or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer such drug who makes written request for information as to such drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the Federal Act. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this act.

Counterfeiting trade-marks.

(m) (Counterfeiting trade-marks)

(1) Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing; or

(2) Selling, dispensing, disposing of or causing to be sold, dispensed or disposed of or concealing or keeping in possession, control or custody, with intent to sell, dispense or dispose of, any drug, device or any container thereof, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by subsection (1) hereof; or

(3) Making, selling, disposing of or causing to be made, sold or disposed of or keeping in possession, control or custody, or concealing, with intent to defraud, any punch, die, plate or other thing designed to print, imprint, or reproduce that trade name or other identifying mark or imprint of another or any likeness of any of the foregoing upon any drug, device or container thereof.

(n) Dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the express permission in each case of the person ordering or prescribing.

(o) The using by any person to his own advantage, or revealing, other than to the state board, or officers or employees of the department, or to the courts when relevant in any judicial proceeding under this act, any information acquired under authority of this act concerning any method or process which as a trade secret is entitled to protection.

HeinOnline -- 1971 vol. I 744 1971

(p) The distribution in commerce of a consumer commodity, as defined in this act, if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this act and of regulations promulgated under authority of this act; provided, however, that this prohibition shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons

(1) are engaged in the packaging or labeling of such commodities, or

(2) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

(q) The labeling or packaging of a food, drug, or cosmetic which fails to conform with the requirements of this act."

Section 3. Section 27-721, R.C.M., 1947, is amended to read as follows: Amending clause.

"27-721. **Procedure for adopting, amending or repealing regulations — hearings.**

(a) The authority to promulgate regulations for the efficient enforcement of this act is hereby vested in the state board. The state board is hereby authorized to adopt by reference the regulations promulgated by the Food and Drug Administration under the Federal Act *and the Fair Packaging and Labeling Act (15 U.S.C. 1451, et seq.).* Board has authority to regulate.

(b) Hearings authorized or required by this act shall be conducted by the state board or such officer, agent or employee as the state board may designate for the purpose. Conduct of hearings.

(c) Before promulgating any regulations contemplated by section 27-709; 27-711 (j); 27-712; 27-715 (d), (f), (g), (h), (m), and (p); 27-716 (c); or 27-720 (b), the state board shall give appropriate notice of the proposal and of the time and place for a hearing. The regulation so promulgated shall become effective on a date fixed by the state board (which date shall not be prior to ten (10) days after its promulgation). Such regulation may be amended or repealed in the same manner as is provided for its adoption, except that in the case of a regulation amending or repealing any such regulation the state board, to such an extent as it deems necessary in order to prevent undue Notices. Effective date. Amendment or repeal.

HeinOnline -- 1971 vol. I 745 1971

Waiver. hardship, may disregard the foregoing provisions regarding notice, hearing or effective date. No hearing will be Exception. required for promulgation by reference of those regulations promulgated under the Federal Act *and the Fair Packaging and Labeling Act (15 U.S.C. 1451, et seq.).*"

Approved March 3, 1971

CHAPTER NO. 172

An Act to Amend Section 94-35-249, R.C.M., 1947, to Prohibit the Possession of Any Key or Device Specifically Designed to Open or Break Any Parking Meter, Coin Telephone, or Other Vending Machines Dispensing Goods or Services and to Increase the Penalties Provided by Section 94-35-249, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 94-35-249, R.C.M., 1947, is amended to read as follows:

Use of slugs in coin operated equipment forbidden. "94-35-249. **Vending or coin-operated machines — operation with counterfeit slugs, etc., forbidden.** Any person who, by means of any token, slug, false or counterfeited coin, or by any other means, method, trick or device whatsoever not lawfully authorized by the owner, lessee, or licensee of any lawful vending machine, coin-box telephone or other receptacle designed to receive or be operated by lawful coin of the United States of America in furtherance of or connection with the sale, use or enjoyment of property or service, knowingly shall operate or cause to be operated, or shall attempt to operate or attempt to cause to be operated, any lawful vending machine, coin-box telephone or other receptacle designed Deposit of lawful coin required. to receive or be operated by lawful coin of the United States of America, or whoever shall take, obtain, accept or receive, from or by means of any such machine, coin-box telephone or other receptacle, any article of value of service or the use or enjoyment of any telephone, telegraph or other facility or service, without depositing in, delivering to and payment into such machine, coin-box telephone or receptacle the amount of lawful coin of the United States of America required therefor by the owner, lessee or licensee of such machine, coin-box telephone or

HeinOnline -- 1971 vol. I 746 1971

other receptacle, *and any person who possesses, with the intent to commit larceny, a key or device specifically designed to open or break any parking meter, coin telephone, or other vending machines dispensing goods or services,* shall be fined not more than two hundred dollars ($200.00), or imprisoned not more than sixty (60) days, or both."

Use of key or device prohibited.

Penalties.

Approved March 3, 1971

CHAPTER NO. 173

An Act to Amend Section 95-1703, R.C.M., 1947, Providing for Dismissal of Actions.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 95-1703, R.C.M., 1947, is amended to read as follows:

Amending clause.

"95-1703. **Dismissal on motion of court or application of attorney prosecuting.** *(1)* The court may, either on its own motion or upon the application of the attorney prosecuting, and in furtherance of justice, order an action, complaint, information, or indictment to be dismissed. The reasons of the dismissal must be set forth in an order entered upon the minutes.

Court may order dismissal.

(2) The court, unless good cause to the contrary is shown, must order the prosecution to be dismissed in the following cases:

Court must order dismissal.

If a defendant, after entry of plea upon a complaint, information, or indictment charging a misdemeanor, whose trial has not been postponed upon his application, is not brought to trial within six months.

Not brought to trail within 6 months.

(3) An order for the dismissal of an action, as provided in this chapter, is a bar to any other prosecution for the same offense if it is a misdemeanor, but it is not a bar if the offense is a felony."

Bar if misdemeanor.

Approved March 3, 1971

CHAPTER NO. 174

An Act to Amend Section 92-701, R.C.M., 1947, to Raise Compensation Rates During the Period of Total Temporary Disability.

HeinOnline -- 1971 vol. I 747 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-701, R.C.M., 1947, is amended to read as follows:

Compensation for injuries—temporary total disability.

"92-701. **Compensation for injury producing temporary total disability.** *Compensation for injury producing temporary total disability shall be as follows:* Where the injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *sixty dollars ($60)* per week; where the injured employee has a wife, or child, or father or mother, or brother or sister residing within the United States, who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *sixty-six dollars ($66)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *seventy-two dollars ($72)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *seventy-five dollars ($75)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the weekly wages received at the time of his injury, subject to a maximum compensation of *seventy-eight dollars ($78)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing in the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66 2/3%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *eighty dollars ($80)*

50% of weekly wage—maximum $60 per week.

55% of weekly wage—maximum $66 per week.

60% of weekly wage—maximum $72 per week.

62½% of weekly wage—maximum $75 per week.

65% of weekly wage—maximum $78 per week.

66 2/3% of weekly wage—maximum $80 per week.

HeinOnline -- 1971 vol. I 748 1971

per week, and subject in all cases to a minimum compensation of *forty-five dollars ($45)* per week, and subject to change when the number of beneficiaries or dependents increases by birth, or decreases. In all cases—minimum $45 per week.

Compensation for total temporary disability shall be paid for a period not exceeding three hundred (300) weeks from the date of injury. 300 weeks.

In cases where it is determined that periodic disability benefits granted by the federal old age, survivors, and disability insurance act are payable on account of such injury, the weekly benefits payable pursuant to this section shall be reduced, but not below zero, by an amount equal as nearly as practical to one-half such federal periodic benefits for such week." Other benefits. Reduction in benefits.

Approved March 3, 1971

CHAPTER NO. 175

An Act to Amend Section 92-422, R.C.M., 1947, to Redefine a "Week" to Mean Five Working Days.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 92-422, R.C.M., 1947, is hereby amended to read as follows: Amending clause.

"92-422. **Week defined.** 'Week' means *five (5)* working days, but includes Sundays." 'Week' defined.

Approved March 3, 1971

CHAPTER NO. 176

An Act to Amend Section 93-2908, R.C.M., 1947, Providing for a Penalty for Filing a Claim for the Direct Payment of Money in an Improper Venue, if the Plaintiff Will Not Stipulate for Such Change Within Ten Days After Request and a Change of Venue is Granted.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-2908, R.C.M., 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1971 vol. I 749 1971

Duty to transmit pleading and papers for trial.

"93-2908. **Papers to be transmitted — costs and fees — jurisdiction.** When an order is made transferring an action or proceeding for trial, the clerk of the court, or justice of the peace, must transmit the pleading and papers therein to the clerk or justice of the court to which it is transferred. The costs and fees thereof, and of filing the papers anew, must be paid by the party at whose instance the order was made, *except that: (1) when the action is an action upon a contract, express or implied, for the direct payment of money, and no claim contained in the complaint exceeds one thousand dollars ($1,000); (2) the county designated in the complaint is not the proper county; and (3) if the plaintiff will not within ten (10) days after request stipulate for change of venue and defendant files a motion for such change and such motion is thereafter granted; then the party filing the complaint must pay all costs and fees of filing the papers anew and all costs and fees, including reasonable attorney's fees to be fixed by the court incurred by the defendant by reason of the change of venue motion and hearing.* The court to which an action or proceeding is transferred has and exercises over the same the like jurisdiction as if it had been originally commenced therein."

Costs and fees.

Exceptions actions on contract $1,000 or less.

Not proper county.

Refusal to stipulate.

Motion granted.

Complainant must pay costs and attorney's fees.

Jurisdiction.

Approved March 3, 1971

CHAPTER NO. 177

An Act Amending Section 26-301, R.C.M., 1947, to Include Stock-Killing Mountain Lions in Subsection Five.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-301, R.C.M., 1947, is amended to read as follows:

Amending clause.

"26-301. **Restrictions of manner of taking and possessing fish and game and powers of commission relating thereto.** (1) It shall be unlawful for anyone to take, capture, shoot, kill, or attempt to take, capture, shoot or kill, any game animal, or game bird from any self propelled or drawn vehicle, or on, or from any public highway in the state of Montana, or by the aid or with the use of any set gun, jack-light, or other artificial light, trap, snare, salt lick, nor shall any such set gun, jack-light or other artificial light, trap, snare, salt lick or

Unlawful to take game from vehicles.

From public highway.

Use of devices forbidden.

HeinOnline -- 1971 vol. I 750 1971

cther device to entrap or entice game animals or game birds be used, made or set, nor may rifles be used to hunt or shoot upland game birds unless the use of rifles is permitted by the commission; provided, however, that this does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than a number ten (10) gauge fired from the shoulder, nor shall any game fish be caught, captured, or taken, or attempted to be caught, captured or taken by the aid or with the use of any gun, or trap, nor shall any such set gun, or trap or other device to entrap game fish be used, made, or set.

Use of rifles.

Exceptions.

2. (a) No game birds or game or fur-bearing animals shall be killed, taken or shot at from any aircraft, nor shall any aircraft be used for the purpose of concentrating, pursuing, driving, rallying or stirring up any game or migratory birds, game or fur-bearing animals, nor shall any powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or any boat under sail be used for the purpose of killing, capturing, taking, pursuing, concentrating, driving or stirring up any game birds, or migratory waterfowl, or game or fur-bearing animals.

Use of aircraft forbidden.

Boats.

(b) No person in an aircraft in the air shall spot or locate any game, or migratory bird, game or fur-bearing animals and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person or persons then on the ground.

Spotting from aircraft.

3. No person shall take into a field or forest, or have in his possession while out hunting, any device or mechanism devised to silence, or muffle or minimize the report of any firearms, whether such device or mechanism be operated from or attached to any firearm.

Silencers.

4. No person may use a shotgun to hunt, kill or shoot deer except with loads as specified by the commission.

Shotguns to hunt deer.

5. No person shall chase with dogs any of the game or fur-bearing animals as defined by the fish and game laws of this state; provided, however, that livestock owners, employees of the state fish and game commission and of the federal fish and wildlife service may use dogs in pursuit of stock-killing bears, *and stock-killing mountain lions,* or cther means of taking stock-killing bears *and stock-killing*

Use of dogs.

Exceptions.

HeinOnline -- 1971 vol. I 751 1971

mountain lions except the use of the dead fall; providing, however, that traps used in capturing bear shall be inspected twice each day, which inspection shall be twelve (12) hours apart; and provided further, that a person may take game birds during the open season thereon with the aid of a dog or dogs and any person or association organized for the protection of game, may run field trials at any time upon obtaining written permission from the state fish and game director.

Inspection of bear traps.

Bird dogs.

Field trials.

6. The state fish and game commission shall have the power to designate certain waters where set lines may be used to fish for certain species of game or nongame fish, and the commission may designate the number of hooks and lines and the length of line or lines which may be used as set lines.

Set lines.

7. Game fish shall be taken only by angling, that is by hook and single line in hand or single rod in hand, or within immediate control; this does not prevent, however, the snagging of paddlefish, coho (silver salmon), and kokanee (sockeye salmon) when the commission shall declare an open season when paddlefish, coho (silver salmon), and kokanee (sockeye salmon) may be taken by snagging, the taking of paddlefish with long bow and arrow when the commission shall declare an open season when paddlefish may be taken by long bow and arrow, the taking of walleyed pike, sauger, northern pike and nongame fish with spear or gig when the commission shall declare an open season for taking walleyed pike, sauger, northern pike and nongame fish with spear or gig, nor the use of landing net or gaff to land a game fish after the same has been hooked by angling as above specified, nor does it prevent the taking of minnows other than game fish variety by the use or aid of a net not to exceed twelve (12) feet in length and four (4) feet in width, in such waters as may be designated by the commission.

Taking of game fish—commission may declare open seasons.

8. It shall be unlawful for anyone to use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up or harass game animals, game birds or fur-bearing animals.

Use of vehicle to drive game prohibited.

9. Whenever said fish and game commission shall have made any orders, rules or regulations for the carrying out of the powers granted to it under this act, the same shall take effect and be in force from and after the publi-

Rules effective after notice.

HeinOnline -- 1971 vol. I 752 1971

cation and posting of notice of said orders, rules and regulations as required by the fish and game laws.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be punishable as provided by law."

Penalties.

Approved March 3, 1971

CHAPTER NO. 178

An Act to Amend Section 61-112.2, R.C.M., 1947, to Allow Reasonable Attorney's Fees for the Successful Recovery of Damages for Malicious Destruction of Property by Persons Under Eighteen (18), from the Parents, as Provided for in Section 61-112.1, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 61-112.2, R.C.M., 1947, is amended to read as follows:

Amending clause.

"61-112.2. **Limitation on amount of recovery.** The recovery shall be limited to the actual damages in an amount not to exceed three hundred dollars ($300.00) in addition to taxable court costs, *and a reasonable attorney's fee to be set by the court, not to exceed one hundred dollars ($100). The right to recover attorney fees as provided by this section shall be limited to a person bringing an action under section 61-112.1, R.C.M., 1947.*"

Recovery limited—damages not to exceed $300.

Costs and attorney's fee not to exceed $100.

Approved March 3, 1971

CHAPTER NO. 179

An Act Relating to Certificates of Registration and Ownership; Amending Section 53-107, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-107, R.C.M., 1947, is amended to read as follows:

Amending clause.

"53-107. **Certificates of registration and ownership — contents, issuance, entry, assignment of numbers — own-**

HeinOnline -- 1971 vol. I 753 1971

County treasurer shall issue two copies—distribution.

er's registration receipt to be signed, carried and exhibited on demand. Upon completion of the application for registration, on forms furnished by the registrar of motor vehicles, the county treasurer shall issue to the applicant two (2) copies of the application marked "Owner's Certificate of Registration and Tax Receipt," one (1) of which shall be marked "file copy," and forward one (1) copy of the application to the registrar of motor vehicles who shall cause to be entered the information contained in said application upon the corresponding records of his office and shall furnish the applicant a certificate of ownership *subject to the provisions of section 53-110. Said* certificate of registration and ownership shall meet the following requirements:

Duty of registrar.

Certificate of ownership requirements.

The certificate of registration and the certificate of ownership shall each contain upon the face thereof: (1) the date issued, (2) the registration number assigned to the owner and the vehicle, (3) the name and complete address of the owner and the name and complete address of any conditional sales vendor, and also the name and address of any other lienor as shown by said application, (4) a description of the registered vehicle including the year built and serial number, if any, (5) any lien against such motor vehicle and the amount due at the date of registration, and such other statement of facts as may be determined by the registrar.

Recheck.

Upon receipt of the application the registrar shall make a recheck of the application and in the event that there is any error in the application it may be returned to the county treasurer to effectively secure the correction of such error, who shall return the same to the registrar of motor vehicles.

Form of notice.

The certificate of ownership shall contain a form of notice to the registrar of a transfer of title or interest of the owner and such other statement on forms as may be determined by the registrar.

Signed registration receipt carried in vehicle.

File copy of owner's certificate of registration receipt to be signed, carried, and exhibited on demand. Every owner, upon receiving a registration receipt shall write his signature thereon with pen and ink in the space provided. Every such registration receipt or a notarized photostatic copy thereof or a duplicate thereof furnished by the registrar of motor vehicles shall at all times be carried

HeinOnline -- 1971 vol. I 754 1971

in the vehicle, to which it refers or shall be carried by the person driving or in control of such vehicle, who shall display the same upon demand of a police officer or any officer or employee of the registrar of motor vehicles or the highway department.

"Motor vehicle" defined.

The term "motor vehicle" includes automobile, truck, motorcycle-*type vehicle,* and semitrailer, trailer and trailer-house.

Identification number.

Any trailer, semitrailer or trailer-house which does not have a manufacturer's or other identifying number thereon shall be assigned an identification number by the registrar upon registration of such motor vehicle. The owner or other person lawfully in possession of such motor vehicle shall stamp such number so assigned by the registrar upon the principal right frame member of said motor vehicle near the front end thereof where it may be clearly and readily seen, and said stamping shall be promptly accomplished after notice of the assigned number by the registrar. The registrar may withhold registration until satisfactory proof by affidavit, of such stamping is filed with him.

Stamping on vehicle.

Affidavit.

Penalties.

Any person violating this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding twenty-five dollars ($25.00)."

Approved March 3, 1971

CHAPTER NO. 180

An Act Requiring Persons Excavating in any Public Street, Alley, Right-of-Way Dedicated to Public Use or Utility Easement to Obtain Information as to Existence Therein of Underground Facilities, and Providing Civil Penalties for Failure So to Do.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. The following definitions shall apply to this act:

"Person."

(a) "Person" shall mean and include an individual, partnership, joint venture or corporation, and includes the employer of an individual.

HeinOnline -- 1971 vol. I 755 1971

"Underground facility."

(b) "Underground facility" shall mean any item of personal property which shall be buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, electric energy, oil, gas, or other substances, and shall include but not be limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to the aforesaid.

"Excavation."

(c) "Excavation" shall mean and include any ditch, trench, cut, hole or change in grade.

Duty to check all facilities prior to excavation.

Section 2. No person shall make or begin any excavation in any public street, alley, right-of-way dedicated to the public use or utility easement without first obtaining information concerning the possible location of any underground facility from each and every public utility, municipal corporation or other person having the right to bury such underground facilities within the public street, alley, right-of-way or utility easement.

Written request.

Section 3. Any person seeking information concerning the location of any underground facility must do so by request in writing. The person from whom such information is sought must acknowledge in writing receipt of such request and must provide such information in writing no later than the end of the normal business hours of the second full business day following the date of receipt the request, Saturdays, Sundays and holidays excluded.

Receipt and information.

Duty to file name of information source with county clerk.

Every public utility, municipal corporation, or other person having the right to bury underground facilities, shall file with the county clerk and recorder in each county where the underground facilities are located, the name, address, and telephone number of the person or persons from whom the necessary information may be obtained.

Liability for damage.

Section 4. If any underground facility is damaged by any person who has failed to obtain information as to its location as provided in section 3, then such person shall be liable to the owner of the underground facility for the entire cost of the repair of such facility.

Liability for negligence.

Section 5. The act of obtaining information as required by this act shall not excuse any person making any excavation from doing so in a careful and prudent manner nor shall it excuse such person from liability for any damage or injury resulting from his negligence.

HeinOnline -- 1971 vol. I 756 1971

Effect of failure to provide information.

Section 6. If information requested pursuant to section 3 of this act is not provided within the time specified therein, any person damaging or injuring underground facilities shall not be liable for such damage or injury, unless caused by his negligence.

Exception.

Emergency repairs.

Section 7. The provisions of this act shall not apply to any person making repairs to an underground facility or repairs to the streets or alleys themselves in a situation of emergency when such repairs must be made within a shorter period of time than that provided for in section 3 of this act, provided, however, that this exemption from obtaining information shall not excuse the person making the repairs from any liability for damages caused by his negligence.

Duties of architects and engineers.

Section 8. Architects and engineers designing or requiring excavating in or adjacent to any public street, alley or right-of-way dedicated to public use or utility easement shall obtain information as to underground facilities and then make said information a part of the plan by which the contractors operate. Nothing in this section shall excuse any person from the obligation imposed by section 2 of this act.

Severability clause.

Section 9. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 3, 1971.

CHAPTER NO. 181

An Act Relating to White Canes for the Blind; Repealing Sections 32-1143, 32-1144, 32-1145, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

"White cane act.

Section 1. This act may be cited as the "White Cane Act."

Policy of state.

Section 2. It is the policy of the state to encourage and enable the blind, the visually handicapped, and the otherwise physically disabled to participate fully in the

HeinOnline -- 1971 vol. I 757 1971

Employment of handicapped.

social and economic life of the state and to engage in remunerative employment. The blind, the visually handicapped, and the otherwise physically disabled shall be employed in the state service, the service of the political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved.

Use of white canes restricted to blind.

Section 3. Use of white colored canes restricted to blind. No person, except those wholly or partially blind, shall carry or use on any street, highway or in any other public place, a cane or walking stick which is white in color, or white tipped with red.

Right to use guide dogs.

Section 4. Every totally or partially blind person shall have the right to be accompanied by a guide dog, especially trained for the purpose, in any of the places where the public are invited — hotels, motels, public conveyances, public eating places, and places of amusement — without being charged extra for the guide dog; provided that he shall be liable for any damage done to the premises or facilities by such dog.

Duty to stop for blind.

Section 5. Any pedestrian who is not wholly or partially blind, or any driver of a vehicle who approaches or comes in contact with a person wholly or partially blind carrying a cane or walking stick predominately white or metallic in color or white tipped with red or being led by a trained guide dog wearing a harness and walking on either side of or slightly in front of said blind person shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid accident or injury to the person wholly or partially blind.

Violations.

Section 6. Canes — regulation of carrying — penalty. Any person other than a person wholly or partially blind who shall carry a cane or walking stick such as is described in this act, contrary to the provisions of this act, or who shall fail to heed the approach of a person carrying such a cane as is described by this act, or who shall fail to come to a full stop when approaching or coming in contact with a person so carrying such a cane or walking stick, or being led by a trained guide dog, or who shall fail to take precaution against accidents or

HeinOnline -- 1971 vol. I 758 1971

injury to such person after coming to a stop, as provided for herein, is guilty of a misdemeanor, punishable by a fine not to exceed twenty-five dollars ($25). Penalties.

Section 7. Sections 32-1143, 32-1144, 32-1145, R.C.M., 1947, are repealed. Repealing clause.

Approved March 3, 1971

CHAPTER NO. 182

An Act to Amend Sections 8-103 and 8-104.4 of the Revised Codes of Montana, 1947, Relating to Regulation of Motor Carriers by the Board of Railroad Commissioners; Empowering the Board to Authorize Different Rates for Service Within the Same Places When Such Different Rates are Justified by the Differing Character of Service to be Rendered.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 8-103, R.C.M., 1947, is hereby amended to read as follows: Amending clause.

"8-103. **Board of railroad commissioners to supervise and regulate motor carriers — appointment and duties of supervisor.** (a) The board of railroad commissioners is hereby vested with power and authority, and it is hereby made its duty to supervise and regulate every motor carrier in this state; to fix specific, just, reasonable, equal and nondiscriminatory rates, fares, charges and classifications for class A and class B motor carriers; to regulate the properties, facilities, operations, accounts, service, practices, affairs and safety of operations of all motor carriers; to require the filing of annual and other reports, tariffs, schedules, or other data by such motor carriers and to supervise and regulate motor carriers in all matters affecting the relationship between such motor carriers and the traveling and shipping public. *To fully secure adequate motor transportation facilities for all users of such service, and to secure the public advantages thereof, the board shall encourage a system of common carrier motor transportation within the state for the convenience of the shipping public. The maintenance of a common carrier motor transportation system within Montana is hereby declared to be a public purpose.* The board shall have power and authority by general order or otherwise to

Board of railroad commissioners shall supervise motor carriers.

Fix rates.

Regulate operations.

Require reports.

Board shall encourage system of transportation.

Public purpose.

Rules and regulations.

HeinOnline -- 1971 vol. I 759 1971

prescribe rules and regulations in conformity with this act applicable to any and all motor carriers.

Board shall appoint supervisor.

(b) The board shall appoint a supervisor of motor carriers who shall have general responsibility to it for

Duties.

enforcement of the provisions of this act. The supervisor shall direct all enforcement activities in behalf of the board, including the investigation and prosecution of violations of this act or the rules, regulations or orders pre-

Qualifications.

scribed thereunder by the board. The supervisor shall be either an attorney admitted to practice law in the state of Montana, or a person qualified by at least five (5) years of suitable experience and training in appropriate phases

Term and salary.

of the motor carrier industry; he shall serve at the pleasure of the board and at an annual salary to be set by the board. The supervisor, and whatever field inspectors may

Deemed peace officers.

be employed by the board to assist him, shall be deemed peace officers for the purpose of making arrests in connection with violations of this act, and issuing summonses,

Power to make inspections.

accepting bail and serving warrants of arrest. The supervisor and field inspectors are empowered to make reasonable inspections of cargoes carried by commercial motor vehicles and require production of manifests, bills of lading, leases and other documents relating to the cargo, routing or ownership of such vehicles.

Considerations in rule making.

(c) All rules and regulations in relation to schedules, service, tariffs, rates, facilities, accounts and reports shall have due regard for the differences existing between class A, class B, and class C motor carriers as herein defined, and shall be just, fair and reasonable to the said classes of motor carriers in their relations to each other and to

Rates.

the public. In fixing the tariff or rates to be charged by class A and class B motor carriers for the carrying of persons and/or property, the board shall take into consideration the kind and character of service to be performed, the public necessity therefor, and the effect of such tariffs and rates upon other transportation agencies, if any, and as far as possible avoid detrimental or unreasonable competition with existing railroad service or service furnished by a motor carrier."

Amending clause.

Section 2. Section 8-104.4, R.C.M., 1947, is hereby amended to read as follows:

Discrimination prohibited.

"8-104.4. **Rate preference, discrimination forbidden.** All rates, fares, charges, classifications, or rules of service for the transportation of property and/or persons upon

HeinOnline -- 1971 vol. I 760 1971

the public highways of this state must be fair, just, reasonable, and nondiscriminatory, and no motor carrier operating under established rates shall make, give, or permit any undue preference or advantage to any particular person, company, partnership, corporation or locality, or any particular description of traffic, nor shall such motor carrier subject any particular person, company, partnership, corporation, or locality, or any particular description of traffic, to any prejudice or disadvantage in any respect. *Nothing herein provided shall prevent the board from authorizing different rates or schedules of rates for service between the same places, or between different points of origin and/or destination within the same places, when such different rates are justified by the differing character of service to be rendered by the carrier to a shipper or consignee.*

Board may authorize different rates—schedules.

The board may, upon its own initiative or upon the complaint of any interested party, investigate any rate, fare, charge, classification, or rule of service contained in the schedule of any motor carrier; if the board shall find, after such investigation, that any such rate, fare, charge, classification, or rule of service is unfair, unjust, unreasonable, or discriminatory, it shall disallow the same and fix a rate, fare, charge, classification, or rule of service which shall be fair, just, reasonable, and nondiscriminatory, and it shall order the affected motor carrier or carriers to conform to such modified schedule; provided, however, that each motor carrier affected by any complaint or investigation shall first be given notice of the same and an opportunity to be heard before the board.''

Investigations.

Findings.

Modifications.

Notice.

Hearing.

Approved March 3, 1971

CHAPTER NO. 183

An Act to Provide that a City or Town Shall Not Circumvent Any Competitive Bidding Procedures with Respect to the Letting of a Contract for a Public Work or Construction Project Under Certain Circumstances by Dividing a Public Work or Construction Project into Several Contracts, Separate Work Orders or Similar Devices.

HeinOnline -- 1971 vol. I 761 1971

Be it enacted by the Legislative Assembly of the State of Montana:

City or town may not circumvent competitive bidding.

Section 1. Whenever any law of this state provides a limitation upon the amount of money that a city or town can expend upon any public work or construction project without letting such public work or construction project to contract under competitive bidding procedures, a city or town shall not circumvent such provision by dividing a public work or construction project or quantum of work to be performed thereunder which by its nature or character is integral to such public work or construction project, or serves to accomplish one of the basic purposes or functions thereof, into several contracts, separate work orders or by any similar device.

Approved March 3, 1971

CHAPTER NO. 184

An Act to Allow and Regulate the Use of Dogs for Hunting Mountain Lion.

Be it enacted by the Legislative Assembly of the State of Montana:

Use of dogs—hunting mountain lion.

Section 1. The Montana fish and game commission shall have authority to allow and regulate the use of dogs for hunting mountain lion.

Approved March 3, 1971

CHAPTER NO. 185

An Act Relating to the Fees Charged and Collected by the Secretary of State; Amending Sections 15-22-122, 15-2384, 25-102, 87A-9-403, 87A-9-404, 87A-9-405, 87A-9-406, 87A-9-407, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 15-22-122, R.C.M., 1947, is amended to read as follows:

Secretary of state shall collect miscellaneous fees.

"15-22-122. **Miscellaneous charges.** The secretary of state shall charge and collect:

(a) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, *fifty cents*

HeinOnline -- 1971 vol. I 762 1971

($.50) per page and two dollars ($2) for the certificate and affixing the seal thereto.

(b) For furnishing any certificate not mentioned in this or the preceding section, five dollars ($5)."

Section 2. Section 15-2384, R.C.M., 1947, is amended to read as follows: Amending clause.

"15-2384. **Miscellaneous charges.** The secretary of state shall charge and collect: Fees.

(a) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, *fifty cents ($.50)* per page and two dollars ($2) for the certificate and affixing the seal thereto.

(b) For furnishing any certificate not mentioned in this or the preceding section, five dollars ($5)."

Section 3. Section 25-102, R.C.M., 1947, is amended to read as follows: Amending clause.

"25-102. **Fees of secretary of state.** The secretary of state, for services performed in his office, must charge and collect the following fees: Fees enumerated.

1. For each copy of any law, resolution or record or other document or paper on file in his office, except corporate papers, forty cents ($.40) per folio, or, if the copy is made by any process of reproduction by photographic, photostatic or similar process, the fee shall be *fifty cents ($.50)* per page or fraction thereof.

2. For affixing certificate and seal, two dollars ($2).

3. For receiving and recording each official bond, ten dollars ($10).

4. For each commission or other document, signed by the governor, and attested by the secretary of state (pardon and military commissions excepted), five dollars ($5).

5. For filing each trade-mark, five dollars ($5); for filing and recording each assignment of a trade-mark, five dollars ($5); and for issuing each certificate of record, five dollars ($5).

6. For filing and recording miscellaneous papers, records, or other documents, five dollars ($5).

7. For filing and recording any other paper not other-

HeinOnline -- 1971 vol. I 763 1971

wise herein provided for, five dollars ($5). When a copy of any law, resolution or record or other document or paper on file in the office of the secretary of state is presented for comparison and certification, ten cents ($.10) per folio must be charged and collected for proofreading the same. That no member of the legislative assembly, or state or county officer, can be charged for any search relative to matters appertaining to the duties of his office; nor must he be charged any fee for a certified copy of any law or resolution passed by the legislative assembly relative to his official duties. Fees must be collected in advance, and when collected by the secretary of state, must be paid to the state treasurer at the end of each quarter, as provided in the constitution.

8. For filing and recording any paper, record, or other document or other than a standard form when recommended by the secretary of state, five dollars ($5)."

Amending clause.

Section 4. Section 87A-9-403, R.C.M., 1947, is amended to read as follows:

"87A-9-403. **What constitutes filing — duration of filing — effect of lapsed filing — duties of filing officer.**

Filing of financial statement defined.

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this chapter.

Duration of filing.

Maturity date plus 60 days.

5 years.

Lapse.

5 years.

(2) A filed financing statement which states a maturity date of the obligation secured of five *(5)* years or less is effective until such maturity date and thereafter for a period of sixty *(60)* days. Any other filed financing statement is effective for a period of five *(5)* years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty-day period after a stated maturity date or on the expiration of such five-year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected. A filed financing statement which states that the obligation secured is payable on demand is effective for five *(5)* years from the date of filing.

Continuation statement.

(3) A continuation statement may be filed by the secured party (i) within six *(6)* months before sixty *(60)* days after a stated maturity date of five *(5)* years

HeinOnline -- 1971 vol. I 764 1971

or less, and (ii) otherwise within six *(6)* months prior to the expiration of the five-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five *(5)* years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

Requirements.

Timely filing.

5 year continuation.

Succeeding statements.

(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

Duties of filing officer.

(5) Except financing statements filed pursuant to section 87A-9-302.2, R.C.M., 1947, if the instrument covers crops growing or to be grown or goods which are, or are to become fixtures, or timber, said instrument shall be indexed in accordance with the requirements applicable to the recording of mortgages of real estate under the laws of this state. For the purpose of such indexing, each of the debtor (or assignor) and the record owner or record lessee of any real estate described in the financing statement shall be considered a mortgagor with respect to the financing statement and the secured party (or assignee) shall be considered a mortgagee with respect to the financing statement.

Indexing.

(6) If the collateral is equipment or rolling stock of railroads or street railways, the fee for filing, indexing, and furnishing filing date for an original or a continuation statement shall be fifteen dollars ($15.00). In all other cases the uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be *two* dollars *($2).''*

Fees.

HeinOnline -- 1971 vol. I 765 1971

Amending clause.

Section 5. Section 87A-9-404, R.C.M., 1947, is amended to read as follows:

Secured party must furnish statement on debtor's demand.

"87A-9-404. **Termination statement.** (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number, and by document number, as the case may be. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof shall be *two* dollars *($2)*. If the affected secured party fails to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars *($100)*, and in addition for any loss caused to the debtor by such failure.

Termination statement requirements.

Fee.

Liabilities for failure to furnish statement.

Duties of filing officer.

(2) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto. If the original financing statement or any continuation statement has been indexed in the records relating to real estate mortgages, the termination statement must be indexed in accordance with ethe requirements applicable to releases of real estate mortgages.

Indexing.

Fees.

(3) If the collateral is equipment or rolling stock of railroads or street railways, the fee for filing and indexing a termination statement including sending or delivering the financing statement shall be fifteen dollars ($15.00). In all other cases the uniform fee for filing and indexing a termination statement including sending or delivering the financing statement shall be *two* dollars *($2)*."

Amending clause.

Section 6. Section 87A-9-405, R.C.M., 1947, is amended to read as follows:

"87A-9-405. **Assignment of security interest — duties**

HeinOnline -- 1971 vol. I 766 1971

of filing officer — fees. (1) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in section 87A-9-403 (4). If the collateral is equipment or rolling stock of railroads or street railways, the fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be fifteen dollars ($15.00). In all other cases the uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be *two* dollars *($2).*

Assignment of security interest.

Duties of filing officer.

Fees.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. If the original financing statement or any continuation statement has been indexed in the records relating to real estate mortgages, the statement of assignment must contain a reference to the document number of such original or continuation statement and must be indexed in accordance with the requirements applicable to assignments of mortgages. If the collateral is equipment or rolling stock, of railroads or street railways, the fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be fifteen dollars ($15.00). In all other cases the uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be *two* dollars *($2).*

Separate statement of assignment.

Duties of filing officer.

Indexing.

Fees.

HeinOnline -- 1971 vol. I 767 1971

Assignee is secured party.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record."

Amending clause.

Section 7. Section 87A-9-406, R.C.M., 1947, is amended to read as follows:

Release of collateral.

"87A-9-406. **Release of collateral — duties of filing officer — fees.** A secured party of record may by his signed statement release all or a part of any collateral

Statement.

described in a filed financing statement. The statement of release is sufficient if it contains description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and

Duties of filing officer.

the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall

Indexing.

note the same upon the margin of the index of the filing of the financing statement. If the original financing statement or any continuation statement has been indexed in the records relating to real estate mortgages, the statement of release must contain a reference to the document number of such original or continuation statement, and must be indexed in accordance with the requirement applicable

Fees.

to release of mortgages. If the collateral is equipment or rolling stock of railroads or street railways, the fee for filing and noting such a statement of release shall be fifteen dollars ($15.00). In all other cases the uniform fee for filing and noting such a statement of release shall be *two* dollars *($2).*"

Amending clause.

Section 8. Section 87A-9-407, R.C.M., 1947, is amended to read as follows:

"87A-9-407. **Information from filing officer.** (1) If

Conformed copy.

the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

Certificate.

(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the

HeinOnline -- 1971 vol. I 768 1971

name and addresses of each secured party therein. The uniform fee for such a certificate shall be *three* dollars *($3)*. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of fifty cents (50¢) per page."

Fees.

Approved March 3, 1971

CHAPTER NO. 186

An Act to Create a State Temporary Mosquito Abatement Advisory Council and a Vector Control Specialist Position in the Department of Health to Determine, Review, Initiate, and Recommend a Comprehensive Mosquito Abatement Program for the State, and, in Addition, Review and Assist Vector Control Programs in a Pilot Project in the Milk River Valley Area; a Temporary Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Declaration of purpose.** The Milk River Valley has and continues to experience tremendous populations of mosquitoes creating a nuisance and affecting the health of the people. Mosquito-borne encephalitis, transmitted by the mosquito, Culex tarsalis, is prevalent in this valley and may cause mental retardation and death. The hordes of mosquitoes create an undesirable condition which is intolerable to the citizens in this valley, especially children, who have experienced secondary infections from mosquito "bites." Agricultural activities and domestic animal production are hindered, creating an economic loss to the agriculturalist and local communities. Recreational activities and tourism are also adversely affected, which directly affects the people's well-being and economic pursuits. Therefore, it is deemed necessary and proper to study, investigate and make recommendations on the control of mosquitoes in this valley as a pilot project for other areas of the state.

Purpose—mosquito control in Milk River Valley.

Pilot project.

Section 2. **State temporary mosquito abatement advisory council.** There is created a temporary advisory council to be known as the state temporary mosquito abatement advisory council. The advisory council shall consist of eleven (11) members; the seven (7) agency

Advisory council created.

HeinOnline -- 1971 vol. I 769 1971

members shall be represented by the head of each agency or his authorized representative. It is comprised of:

(1) The state department of agriculture.

(2) The Montana extension service.

(3) An entomologist from the department of zoology and entomology, Montana state university.

(4) The state department of fish and game.

(5) The state department of health.

(6) The state department of planning and economic development.

(7) The state water resources board.

(8) Two (2) citizens, one (1) representing the Milk River Valley communities.

(9) Two (2) legislators, one (1) from the Milk River Valley area.

The two (2) citizens and two (2) legislators shall be appointed by the governor.

$25 per day. Each citizen and legislator shall receive, as compensation for his services, the sum of twenty-five dollars ($25) per day for each day actually expended in the performance of his duties under this act, and shall be reimbursed for all actual and necessary traveling expenses, as set forth under state law, for per diem and mileage.

Expenses.

Powers and duties. Section 3. **Powers and duties.** (1) The advisory council is vested with the powers and charged with the performance of the duties set forth in this act. The members of the advisory council shall, within thirty (30) days of the effective date of this act, meet and organize by electing from its membership a chairman. The advisory council shall thereafter meet at least quarterly for the transaction of business at such times and places deemed necessary and proper, the meetings to be called by the chairman or by a majority of the advisory council. The council shall keep a record of all the business transacted by it. The chairman and secretary shall sign all orders, minutes or documents for the council. It is recommended that at least one-half (½) of the meetings be held in one of the communities in the Milk River Valley. Any monies appropriated for the advisory council shall be administered by the department of health.

Meetings.

Records.

Monies.

HeinOnline -- 1971 vol. I 770 1971

Council shall study and recommend programs.

(2) The advisory council shall review, study, initiate and recommend programs for controlling mosquitoes in the Milk River Valley pilot project, especially in the counties of Hill, Blaine, Phillips and Valley. This study shall include, but not be limited to, investigation of problems, determining availability of finances, methods of controlling mosquitoes, creation of local mosquito district(s), coordination of activities with local, state and federal agencies, sponsoring educational programs and determining if assistance is available through such organizations as the national science foundation. The advisory council may request the assistance of technical consultants and hold community meetings.

Report to legislative assembly and governor.

(3) The advisory council shall prepare a report of their activities and subsequent recommendations to be presented to the forty-third legislative assembly and the governor. The advisory council's recommendations shall also be made available to the citizens of the Milk River Valley, utilizing mass media communication and/or brochures.

Vector control specialist.

Section 4. **Vector control specialist.** (1) There is created a vector control specialist position within the state department of health, hereafter referred to as the specialist. The specialist shall spend a majority of his time and activities in the Milk River Valley, including, but not exclusive to, the counties of Hill, Blaine, Phillips and Valley.

Location.

Duties enumerated.

Section 5. **Specialist — duties.** The specialist shall be involved in the following activities:

Secretary of council.

(1) Assist and coordinate the activities and act as secretary for the state temporary mosquito abatement advisory council.

Sources of funds.

(2) Explore and develop sources of funds to assist in the research, control, education, as it relates to vector control.

Educational program.

(3) Establish an educational program on mosquito and vector control procedures, especially in the Milk River Valley pilot project.

Studies.

(4) Establish epidemiological and encephalitis studies in the Milk River Valley pilot project in cooperation with mosquito abatement districts, the department of health, and federal agencies.

HeinOnline -- 1971 vol. I 771 1971

Districts. (5) Assist in the creation of mosquito abatement districts.

Assistance. (6) Solicit financial and technical assistance from other agencies to improve and initiate irrigational practices, biological control procedures and other pertinent activities.

Coordinate activities. (7) Coordinate activities with the university system as they relate to mosquito control and agricultural practices in the Milk River Valley pilot project area.

Consultant. (8) Provide technical and consultant services on vector control problems throughout Montana.

Information file. (9) Develop an information file on all phases of vector control and make this information available to all interested parties.

Work with other agencies. (10) Work in conjunction with other agencies — city, county, state or federal — that would be beneficial in the control and eradication of the mosquito.

Temporary act—effective dates. Section 6. This is a temporary act to be effective during the biennium July 1, 1971 through June 30, 1973. If results and objectives are achieved, the forty-third legislative assembly may see fit to make this law permanent and continue administration and funding by the board of health.

Approved March 3, 1971

CHAPTER NO. 187

An Act Amending Section 43-107, R.C.M., 1947, to Move Teton County to the Second Congressional District.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 43-107, R.C.M., 1947, is amended to read as follows:

Congressional districts defined. "43-107. **Congressional districts.** The counties of Beaverhead, Broadwater, Deer Lodge, Flathead, Gallatin, Granite, Jefferson, Lake, Lewis and Clark, Lincoln, Madison, Mineral, Missoula, Powell, Ravalli, Sanders, Silver Bow, Glacier, Toole, Liberty, Pondera, Meagher, and Park shall constitute the first congressional district of

HeinOnline -- 1971 vol. I 772 1971

the state. The counties of Big Horn, Blaine, Carbon, Carter, Cascade, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Hill, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Prairie, Richland, Rosebud, Roosevelt, Sheridan, Stillwater, Sweet Grass, *Teton,* Treasure, Valley, Wheatland, Wibaux and Yellowstone shall constitute the second congressional district of the state.

Whenever any county is created, comprised partly of the territory of both such districts, said county shall belong to and become a part of the district to which major portion of the territory of said county belonged and was a part prior to the creation of such new county."

Approved March 3, 1971

CHAPTER NO. 188

An Act to Amend Section 79-1202, R.C.M., 1947, Relating to Moneys to be Invested by the State Board of Land Commissioners by Authorizing the Board to Invest in First Mortgages on Unencumbered Real Property When Such Real Property is Leased by the Mortgagor and the Lease Payments are Guaranteed by Any Agency of the United States Government; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 79-1202, R.C.M., 1947, is hereby amended to read as follows: Amending clause.

"79-1202. **Moneys to be invested according to unified plan.** 1. The state board of land commissioners is hereby authorized and required to invest the Montana trust and legacy fund subject to the provisions, regulations and limitations of sections 81-1001 to 81-1008, inclusive. Required investment of trust and legacy fund.

2. The state board of land commissioners is hereby authorized and required to invest in the long term investment fund the following: Moneys administered by the Montana highway patrolmen's retirement board in excess of twenty-five thousand dollars ($25,000); moneys administered by the public employees' retirement board; moneys administered by the industrial accident board; all moneys subject to investment as designated by the teach- Required investment in long term investment fund.

HeinOnline -- 1971 vol. I 773 1971

ers' retirement board; moneys designated as available by the Montana fish and game commission and all other moneys designated by statute. Moneys in the long term investment fund may be invested as follows:

Limitations on investments.

U.S. government securities.

(a) In or upon securities which are direct obligations of the United States government; securities which are guaranteed as to principal and interest by the United States government; securities issued by instrumentalities of the United States government.

General obligation bonds and others.

(b) In general obligation bonds of school districts within the state of Montana; in general obligation bonds of the several counties and cities of the state of Montana; in general obligation bonds of the state of Montana; in capitol building bonds of the state of Montana, now issued or which may hereafter be issued; in bonds issued by the federal land banks; in bonds issued by the state board of examiners to construct an unemployment compensation commission office building including the landscaping and paving around said building, upon land adjacent to the capitol buildings; in bonds or other securities which may be issued for the construction of a physical education building at the state industrial school, provided that sufficient income from fees collected under section 80-816 shall be pledged for the retirement of such bonds or other securities; in interest-bearing warrants upon the general fund of the state and in interest bearing warrants upon the general fund, the poor fund, the road fund, the retirement fund, or upon the bridge fund of the several counties and school districts of the state of Montana; the purchase of all such investments to be subject to the discretion of the board.

Limitations.

Warrants.

Obligations of named agencies.

(c) In the obligations, and/or stock where stated, of the following agencies of the government of the United States of America, whether or not such obligations are guaranteed by such government;

(1) Commodity credit corporation.

(2) Federal intermediate credit banks.

(3) Federal land banks.

(4) Central bank for co-operatives.

(5) Federal home loan banks, and stock thereof.

HeinOnline -- 1971 vol. I 774 1971

(6) Federal national mortgage association, and stock thereof when acquired in connection with sale of mortgage loans to such association.

First mortgages.

(d) In first mortgages on unencumbered real property when such mortgages are guaranteed or insured in the amount of thirty per centum (30%) or more of the loan made in the event of default by the United States government or any agency or corporate agency of the United States government *or when such real property is leased by the mortgagor to any person, firm or corporation, as a lessee, which lease payments are guaranteed for the full term of the loan by any agency of the United States government,* and in obligations of housing authorities subject to the terms and limitations of section 35-143, and in unencumbered real property, and in first mortgages of unencumbered real property, not exceeding seventy-five per cent (75%) of the value of the property, provided, however, no more than fifty per centum (50%) of the funds in one (1) account shall be invested in such mortgages and real property.

Guaranteed lease payments.

First mortgage bonds, debentures, notes.

(e) In first mortgage bonds, debentures, notes and other evidences of indebtedness issued, assumed or guaranteed by any solvent and operating corporation existing under the laws of the United States of America or any state thereof which bonds, debentures, notes and other evidences of indebtedness are, at the time of such investment, within the three (3) highest quality grades for the rating of such bonds, debentures, notes and other evidences of indebtedness by any nationally recognized investment rating agency.

Equipment trust obligations.

(f) In equipment trust obligations or certificates adequately secured and evidencing an interest in transportation equipment, wholly or in part within the United States of America, which obligations or certificates carry the right to receive determined portions of rental, purchase, or other fixed obligatory payments to be made for the use or purchase of such transportation equipment, and which obligations or certificates are, at the time of such investment, within the three (3) highest quality grades for the rating of such obligations or certificates by any nationally recognized investment rating agency.

Separation for each fund.

All securities purchased and all cash on hand for each fund shall be kept separate in the long term investment

HeinOnline -- 1971 vol. I 775 1971

fund and all interest collected shall be credited to the fund for which the securities were purchased.

Investments required in short term investment fund.

3. The state board of land commissioners is hereby authorized and required to invest in the short term investment fund any surplus cash in the office of the state treasurer; any money in the sinking fund, which is not required for the immediate payment of any bond principal or interest, or which cannot be used for payment and redemption of bonds outstanding because of the same not being redeemable under the option provisions contained therein; any Montana highway partolmen's retirement moneys less than twenty-five thousand dollars ($25,000) as directed by the Montana highway patrolmen's retirement board and any other moneys designated by statute to be so invested or any moneys in the custody of any officer or officers of the state, or any governing body of any city, county or school district, the investment of which moneys is requested by the officer, or officers or governing body and which moneys are subject to investment. The moneys in the short term investment fund may be invested as follows:

Limitations on investments.

State warrants and U.S. treasury obligations.

(a) The surplus cash in the office of the state treasurer may be invested in registered warrants of the state of Montana and in treasury obligations of the United States government. All warrants purchased shall bear no interest and the interest received from treasury obligations shall be credited to the general fund of the state of Montana.

State and federal bonds.

(b) Any sinking fund and any other moneys may be invested in bonds of the state of Montana, bonds of the United States, in bonds issued by any agency or department of the United States, treasury obligations of the United States, and in interest-bearing warrants drawn against the general fund of the state of Montana; provided, however, that none of such moneys in the sinking fund shall be invested in bonds or securities except such as will be called in and paid at least fifteen (15) days prior to the time such moneys are required for the payment of principal and interest.

Separation for each fund.

All securities purchased and all cash on hand for each account or subfund shall be kept separate in the short term investment fund and all interest collected shall be credited to the account or subfund for which the securities were purchased.

HeinOnline -- 1971 vol. I 776 1971

Employment of financial expert.

The state board of land commissioners is hereby authorized to employ, for the purpose of securing advice on retention, sale or purchase of securities, an expert on financial matters who has had a minimum of ten (10) years' experience in the investment field. The said board is also authorized to obtain financial and investment counsel and services from qualified persons and sources on a fee or contract basis."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1971

CHAPTER NO. 189

An Act to Amend Section 26-201, R.C.M., 1947, Defining Mountain Lion as a Game Animal; and to Correct Spelling of the Word "Stizostedion".

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-201, R.C.M., 1947, is amended to read as follows:

Definitions.

"26-201. **Definitions.** For the purpose of this act, the following shall be construed, respectively to mean:

Commission.

Commission. The state fish and game commission.

Person.

Person. The plural or singular, male or female, as the case demands, including individual, associations, partnerships, and corporations, unless the context otherwise requires.

Open season.

Open Season. The time during which game birds, fish, game and fur-bearing animals may be lawfully taken.

Closed season.

Closed season. The time during which game birds, fish, game and fur-bearing animals may not be lawfully taken.

Angling or fishing.

Angling or fishing. The taking of, or attempting to take fish by hook and single line or single rod in hand or within immediate control.

Upland game birds.

Upland game birds. Sharptail grouse, blue grouse, prairie chicken, sage hen or sage grouse, fool hen, ruffed grouse, commonly called native pheasant or native part-

HeinOnline -- 1971 vol. I 777 1971

ridge, quail, Chinese pheasant and Mongolian pheasant, commonly called ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

Migratory game birds.

Migratory game birds. Waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown, sandhill and whooping cranes; rails, including coots, gallinules, sora or other rails; shore birds, including avocets, curlew, dowitcher, godwits, knots, upland plover, killdeer, sandpipers, Wilson snipes or jacksnipes, snipes, stilts, plovers, willets and yellow legs.

Nongame birds.

Nongame birds. All wild birds not defined herein as upland game birds or migratory game birds, shall be deemed nongame birds.

Game animals.

Game animals. Deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, *mountain lion,* bear and bison or buffalo.

Fur-bearing animals.

Fur-bearing animals. Martin or sable, otter, muskrat, fisher, mink, beaver and black-footed ferret.

Predatory animals.

Predatory animals. Coyote, wolf, wolverine, weasel, skunk and civetcat, and bobcat.

Game fish.

Game fish. All species of the family salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus *stizostedion* (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus esox (northern pike, pickerel and muskellunge); all species of the genus micropeterus (bass); and all species of the genus polyodon (paddlefish)."

Approved March 3, 1971

CHAPTER NO. 190

An Act to Provide Revisions to "The Occupational Disease Act of Montana" in Compliance with the Mandate of the Congress of the United States as Required by the Provisions of Public Law 91-173 of the Ninety-first Congress; and Providing for the Payment of Benefits for Total Disability or Death to a Coal Miner Due to Defined Pneumoconiosis Substantially to, or Greater Than, the Amount of Benefits Prescribed by Said Public Law and to Prescribe Standards and Definitions

HeinOnline -- 1971 vol. I 778 1971

for Determining Death or Total Disability Due to Pneumoconiosis, Which are Substantially Equivalent to Those Established by Said Public Law and Regulations by the Secretary of Health, Education and Welfare; and Providing for the Submission of Any Claim for Benefits Within Three Years of Discovery of Total Disability or Death from Said Disease; and Providing for the Liability of Prior and Successor Operators for all Benefits for Miners at Such Mine On or After December 30, 1969; Amending Section 92-1303, R.C.M., 1947, Relating to Definitions of Disablement and Pneumoconiosis; Amending Section 92-1310, R.C.M., 1947, Relating to Liability of Last Employer; Amending Section 92-1312, R.C.M., 1947, Relating to Time in Which a Claim May Be Presented; Amending Section 92-1315, R.C.M., 1947, Relating to Procedure for Medical Examination; Amending Section 92-1321, R.C.M., 1947, Relating to Compensation Benefits Payable Under Said Act; and Providing an Appendix Setting Forth Appropriate Charts for Determination of Disability and Providing Standards for Interpretation Thereof; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 92-1303, R.C.M., 1947, is amended to read as follows: Amending clause.

"92-1303. **Definitions.** Except as in this section and elsewhere in this act expressly set forth, the definitions contained in the Workmen's Compensation Act shall apply to terms and words herein contained. Definitions.

1. "Weekly wage" means the average of the weekly earnings of the employee in the employ of his employer against whom compensation is awarded during the period of one year prior to the termination of his employment with such employer, or during such lesser period in such year as he has been in the employ of his employer. In case the employee is absent from employment during the period as a result of the occupational disease for which compensation is claimed, then the week or weeks in which the absence occurs shall not be included in the computation of the average weekly wage. If the period provided in this section for computation of the average weekly wage does not include four weeks, then the average weekly wage shall be such as, having regard to the "Weekly wage."

HeinOnline -- 1971 vol. I 779 1971

previous wage of the employee, or of other employees of the same or most similar class working in the same or most similar employment in the same or neighboring locality, reasonably represents the weekly earning capacity of the disabled employee in the employment in which he is working at the time of his disablement.

"Award." 2. "Award" means the finding or decision of the board as to the amount of compensation due any disabled employee or the dependents of any deceased employee.

"Board." 3. "Board" means the industrial accident board of the state of Montana.

"Compensation." 4. "Compensation" means the payments and benefits provided in this act.

"Disablement." 5. "Disablement" means the event of becoming physically incapacitated by reason of an occupational disease as defined in this act from performing any work for remuneration or profit. "Silicosis," as defined in this act, when complicated by active pulmonary tuberculosis, shall be presumed to be total disablement. "Disability," "disabled," "total disability," or "totally disabled" shall be synonymous with "disablement," but they shall have no reference to "partial permanent disability." *Provided that in the event of death or disability due to pneumoconiosis the following shall apply:*

"Silicosis."

Presumption.

Death or disability due to pneumoconiosis.

Coal miner employed 10 years or more—rebuttable presumption. *a. If a miner who is suffering or has suffered from pneumoconiosis was employed for ten (10) years or more in one (1) or more coal mines there shall be a rebuttable presumption that his pneumoconiosis arose out of such employment.*

Deceased coal miner. *b. If a deceased miner was employed for ten (10) years or more in one (1) or more coal mines and died from a respirable disease there shall be a rebuttable presumption that his death was due to pneumoconiosis.*

Miner suffering from chronic dust disease of the lung. *c. If a miner is suffering or suffered from a chronic dust disease of the lung which (1) when diagnosed by chest roentgenogram yields one (1) or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the international classification of radiographs of the pneumoconioses by the international labour organization, (2) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or*

HeinOnline -- 1971 vol. I 780 1971

(3) when diagnosis is made by other means, would be a condition which would reasonably be expected to yield results described in clause (1) or (2) if diagnosis had been made in the manner prescribed in clause (1) or (2) then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.

Rebuttable presumption.

6. The terms "employee," "workman," and "operative," as used herein, shall mean:

"Employee," "workman," and "operative" defined.

Every person in the service of the state, and of a county, city, town, municipal corporation, or school district, including the regular members of lawfully constituted police and fire departments of cities and towns.

Every person in the service of any employer subject to this act as hereinafter defined or to whom such employer is required to secure compensation under this act, including aliens and minors legally or illegally permitted to work for hire, but not including a person whose employment is casual and is not in the usual course of trade, business, or occupation of the employer, and not including agricultural workers and domestic servants unless the employer shall so elect.

Exclusion—person in casual employment.

7. "Beneficiary" means and shall include a surviving wife or husband and a surviving child or children under the age of eighteen (18) years and an invalid child or invalid children over the age of eighteen (18) years, or if no surviving wife or husband then a surviving child or children under the age of eighteen (18) years and an invalid child or invalid children over the age of eighteen (18) years; provided, however, that no invalid child over the age of eighteen (18) years shall be considered a beneficiary unless dependent upon the decedent for support at the time of disablement.

"Beneficiary" defined.

8. "Major dependent" means if there be no beneficiary as defined in a preceding section, the father or mother, or the survivor of them, if actually dependent upon the decedent at the time of his disablement, then to the extent of such dependency, not to exceed, however, the maximum compensation provided for in this act.

"Major dependent."

9. "Minor dependent" means if there be no beneficiary or major dependent as defined in the preceding section the brothers and sisters under the age of eighteen

"Minor dependent."

HeinOnline -- 1971 vol. I 781 1971

years, provided, however, that no invalid brother or invalid sister over the age of eighteen years shall be a "minor dependent" unless actually dependent upon the decedent at the time of his disablement. Minor dependents shall be awarded compensations to the extent of such dependency, not to exceed, however, the maximum compensation provided for in this act.

"Invalid." 10. "Invalid" means one who is physically or mentally incapacitated.

"Child." 11. "Child" shall include a posthumous child, a stepchild, a child legally adopted prior to the disablement, an illegitimate child legitimized prior to the disablement.

"Week." 12. "Week" means six (6) working days, but includes Sundays.

"Wages." 13. "Wages" means the average daily wages received by the employee at the time of the disablement for the usual hours of employment in a day, and overtime is not to be considered.

"Wife" or "widow." 14. "Wife" or "widow" means only a wife or widow living with, or legally entitled to be supported by the deceased at the time of the disablement.

"Husband" or "widower." 15. "Husband" or "widower" means only a husband or widower incapable of supporting himself, and living with, or legally entitled to be supported by the deceased at the time of her disablement.

"Commissioner." 16. "Commissioner" means one (1) of the members of the industrial accident board.

"Appointed member of board." 17. "Appointed member of the board" means that member of the industrial accident board appointed by the governor.

"Order." 18. "Order" shall mean and include any decision, rule, regulation, direction, requirement, or standard of the board, or any other determination arrived at or decision made by such board, excepting general or local orders as herein specified.

"Payroll," "annual payroll," or "annual payroll for the preceding year." 19. "Payroll," "annual payroll" or "annual payroll for the preceding year," means the average annual payroll of the employer for the preceding calendar year, or, if the employer shall not have operated a sufficient or any length of time during such calendar year, twelve (12)

HeinOnline -- 1971 vol. I 782 1971

times the average monthly payroll for the current year; provided, that an estimate may be made by the board for any employer starting in business where no average payrolls are available, such estimate to be adjusted by additional payment by the employer or refund by the board, as the case may actually be on December 31st of such current year. Estimate.

20. "Year," unless otherwise specified, means calendar year. "Fiscal year" means the period of time between the first day of July and the thirtieth (30th) day of the succeeding June. "Year." "Fiscal year."

21. "Insurer" means any insurance company authorized to transact business in this state insuring any employer under this act. "Insurer."

22. "Casual employment" means employment not in the usual course of trade, business, profession, or occupation of the employer. "Casual employment."

23. The term "physician" shall include "surgeon," and in either case shall mean one authorized by law to practice his profession in this state. "Physician." "Surgeon."

24. Wherever the singular is used the plural shall be included, and wherever the plural is used the singular shall be included. Singular—plural.

25. Wherever the masculine gender is used, the feminine and neuter shall be included. Gender.

26. For the purpose of this act "silicosis" is defined as a chronic disease of the lungs caused by the prolonged inhalation of silicon dioxide (SiO_2) characterized by small discrete nodules of fibrous tissue similarly disseminated throughout both lungs, causing characteristic X-ray pattern, and by variable clinical manifestations. "Silicosis."

a. For the purpose of this act "pneumoconiosis" is defined as a chronic dust disease of the lung arising out of employment in coal mines, and includes anthracosis, coal workers' pneumoconiosis, silicosis, or anthracosilicosis arising out of such employment. "Pneumoconiosis."

27. "Workshift" means the work for which an employee is paid a day's wages. "Workshift."

28. "Workmen's Compensation Act" means the Workmen's Compensation Act of the state of Montana." "Workmen's compensation act."

HeinOnline -- 1971 vol. I 783 1971

Amending clause.

Section 2. Section 92-1310, R.C.M., 1947, is amended to read as follows:

Determination of which employer is liable.

"92-1310. **Liability of last employer, exception.** Where compensation is payable for an occupational disease the only employer liable shall be the employer in whose employment the employee was last injuriously exposed to the hazard of such disease, but in the case of silicosis the only employer liable shall be the employer in whose employment the employee was last exposed to harmful quantities of silicon dioxide (SiO_2) dust for a period of ninety (90) actual workshifts or more after July 1, 1958. *Provided that in the case of pneumoconiosis any coal mine operator who has acquired a mine in the state or substantially all of the assets thereof, from a person who was an operator of such mine on or after December 30, 1969, is liable for, and must secure the payment of, all benefits which would have been payable by that person with respect to miners previously employed in such mine if acquisition had not occurred and that person had continued to operate such mine; and the prior operator of such mine shall not be relieved of any liability under this section.*"

Amending clause.

Section 3. Section 92-1312, R.C.M., 1947, is amended to read as follows:

Exception.

"92-1312. **Claims must be presented within what time.** The provisions of section 92-601 shall not apply to claims filed under this act.

Claims barred unless presented within 30 days after filing notice of disability.

It is hereby provided in the case of disability resulting from occupational diseases as herein defined, including silicosis, that all claims therefor shall be forever barred unless the same shall be presented in writing under oath to the employer, the insurer or the board as the case may be within thirty (30) days after claimant has filed his notice of disability as provided in section 92-1313. In the case of death from an occupational disease, as herein defined, including silicosis, all claims therefore shall be forever barred unless the same shall be presented in writing under oath to the employer, the insurer, or the board, as the case may be, within thirty (30) days of filing the notice of death as provided in section 92-1313. *For the purpose of this act a claim for benefits on account of total disability or death of a miner due to pneumoconiosis is deemed to be timely filed if it is filed within three (3) years of the discovery of the total disability or the date of death.*

In case of death—claims barred unless presented within 30 days after filing notice of death.

Claim due to pneumoconiosis timely filed within 3 years.

HeinOnline -- 1971 vol. I 784 1971

Claims shall be filed in triplicate on forms to be furnished by the board and may be accompanied by a medical report of the claimant's attending physician. The provisions of this section as to the time for presenting claims for compensation shall prevail over any other provisions of this act to the contrary."

Claim forms in triplicate.

Section 4. Section 92-1315, R.C.M., 1947, is amended to read as follows:

Amending clause.

"92-1315. **Procedure for medical examination.** A. In order to determine the validity of claims made pursuant to the provisions of this act, the following procedure and no other shall be followed in the course of the medical examination of the claimant for official report to said board, claimant, employer, or insurer, as the case may be.

Procedure for medical examination.

1. Upon the filing of a claim by a claimant for occupational disease disability, other than silicosis *or pneumoconiosis,* the board shall direct a member from said "medical committee" to examine and determine the disability of the claimant and submit a written report thereon to the board.

Occupational disease disability claim.

Upon the filing of a claim for compensation for silicosis disability under this act, the board shall direct an examination of and report to the board upon the claimant by said "pulmonary specialists," or one of them, including such X-ray and other pathological examination and tests as in the opinion of such specialist or specialists may be necessary for the purpose of determining diagnosis, disablement, and the nature and type of medical treatment, hospitalization and other care required. If the claim is not controverted as to any medical fact, the examination and report of one of said specialists, shall be deemed the examination and report of all "pulmonary specialists." If the claim is controverted as to any medical fact, the report shall be made by all of said specialists after a physical examination by at least two (2) of them. The findings and opinions of a majority of the number of said specialists then appointed shall constitute the findings and opinions of all of them. The contents of the report of said "pulmonary specialists" when placed in the record shall constitute prima facie evidence of fact as to the matter therein contained. The "pulmonary specialists" or any one (1) of them making the report shall be subject to examination upon demand of any interested parties.

Silicosis disability claim.

Report of pulmonary specialists.

Controverted claim.

Findings and opinions.

Prima facie evidence.

Examination upon demand.

HeinOnline -- 1971 vol. I 785 1971

Consultation with attending physicians.

The "pulmonary specialists," or any one (1) of them in order to assist in reaching a conclusion may require the attending physician or director of a hospital or a sanitarium or other place in which treatment or care is being given, or has been given, to attend at a convenient time and place to consult with said specialists, or any one of them and to describe the nature and type of care and treatment and furnish any other evidence which said specialist or specialists desire.

Determination by board.

Upon receiving the written report of such examining physician or physicians so appointed, the board shall forthwith determine whether or not the claimant shall receive the benefits pursuant to this act and it shall forward notice of its determination together with a true and correct copy of said medical report to the claimant and the employer or insurer as the case may be.

Demand for hearing within 20 days.

2. If within twenty (20) days after receipt of such notice and medical report the claimant, employer or insurer, as the case may be, is dissatisfied with said determination by said board, they, or any of them, may demand a hearing before said board pursuant to the rehearing provisions of section 92-829. If, however, the board, claimant, employer or insurer, or any of them, is dissatisfied with the results of such first medical examination as indicated by said medical report, such dissatisfied party may upon thirty (30) days' notice in writing to all adversary parties and to the board require a re-examination by a member of said "medical panel"; provided, however, that if the benefits claimed are for a disability caused by silicosis the physician so selected by the dissatisfied party must be one of the "pulmonary specialists." Thereupon, after receipt of the report of medical re-examination, the board shall give like notice of its determination, whether said determination shall be the same as before or otherwise, together with a copy of said medical report, in the same manner as in the case of the first such examination and the party shall be entitled to a rehearing in the same manner as in the case of such first medical examination. The evidence of the two (2) medical examinations above described shall be final, and, so far as the medical examination of the claimant is concerned, no evidence of other or additional medical examinations shall be admissible before the board upon rehearing nor before any court upon the appeal, if any.

Request on 30 days notice for medical re-examination.

Rehearing.

Limitations on medical evidence.

HeinOnline -- 1971 vol. I 786 1971

B. The standards for determining death or total disability due to pneumoconiosis are as follows:

Standards for determining death or disability—pneumoconiosis.

1. Total disability defined. A miner is under a total disability due to pneumoconiosis if: (a) He is suffering or suffered from a chronic dust disease of the lung which: (1) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the international classification of radiographs of the pneumoconioses by the international labour organization; or (2) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, that is, shows the existence of progressive massive fibrosis; or (3) when established by diagnosis by means other than those specified in subparagraphs (1) or (2) of this paragraph, would be a condition which could reasonably be expected to yield the results described in subparagraph (1) or (2) of this paragraph had diagnosis been made as therein prescribed. Provided, however, that any diagnosis made under this clause shall be in accordance with generally accepted medical procedures for diagnosing pneumoconiosis.

Total disability defined.

Chest roentgenogram.

Biopsy or autopsy.

Other diagnosis.

(b) (1) He is unable to engage in any substantial gainful activity by reason of pneumoconiosis which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months; or (2) where the requirements of paragraph (a) of this section are met, the finding that a miner is under a total disability is established by irrebuttable presumption.

Miner unable to engage in gainful activity.

2. Evaluating total disability. (a) Total disability may not be found for purposes of this part unless pneumoconiosis is the impairment involved. Whether or not pneumoconiosis in a particular case constitutes a disability as defined in 1. (b) is determined from all the facts of that case. Primary consideration is given to the severity of the individual's pneumoconiosis. Medical considerations alone can, except where other evidence rebuts a finding of "disability," e.g., the individual is actually engaging in substantial gainful activity, justify a finding that the individual is under a disability where his impairment is one that meets the duration requirement in 1. (b), and is listed in the appendix to this subpart.

Total disability—pneumoconiosis involved.

Considerations.

(b) Pneumoconiosis may be found disabling if it does prevent the individual from engaging in any substantial

Primary reason for disability.

HeinOnline -- 1971 vol. I 787 1971

gainful activity. Such an individual, however, shall be determined to be under a disability only if his pneumoconiosis is the primary reason for his inability to engage in substantial gainful activity. In any such case it must be established that the individual has a respiratory impairment because of pneumoconiosis, demonstrated on the basis of a MVV and FEV_1 which are equal to or less than the values specified in the following table or by a medically equivalent test.

Establishment of impairment.

Height (Inches)	*MVV(MBC) equal and to or less than* L./Min.	*FEV_1 equal to or less than* L.
57 or less	*52*	*1.4*
58	*53*	*1.4*
59	*54*	*1.4*
60	*55*	*1.5*
61	*56*	*1.5*
62	*57*	*1.5*
63	*58*	*1.5*
64	*59*	*1.6*
65	*60*	*1.6*
66	*61*	*1.6*
67	*62*	*1.7*
68	*63*	*1.7*
69	*64*	*1.8*
70	*65*	*1.8*
71	*66*	*1.8*
72	*67*	*1.9*
73 or more	*68*	*1.9*

Limitations on findings.

3. Evidence of pneumoconiosis. (a) A finding of the existence of pneumoconiosis may not be made in the absence of:

Chest roentgenogram.

(1) A chest roentgenogram showing the existence of pneumoconiosis classified as category 1, 2, 3, A, B, or C, according to the international labor organization (1958), international labor organization (1968), or union internationale contra cancer/Cincinnati (1968) classifications of the pneumoconiosis (if the chest roentgenogram is classified as category Z, it should be reclassified as category 0 or category 1 and only the latter accepted as evidence of pneumoconiosis); or

Autopsy.

(2) An autopsy showing the existence of pneumoconiosis; or

HeinOnline -- 1971 vol. I 788 1971

(3) A biopsy (other than a needle biopsy) showing the existence of pneumoconiosis. Such biopsy would not be expected to be performed for the sole purpose of diagnosing pneumoconiosis. Where a biopsy is performed for other purposes, however, (e.g., in connection with a lung resection), the report thereof will be considered in determining the existence of pneumoconiosis.

Biopsy.

(b) The roentgenogram, to conform to accepted medical standards, should represent a posterior-anterior view of the chest, taken at a distance of six (6) feet between the X-ray tube and the X-ray film on a 14 by 17 inch X-ray film.

Accepted medical standards for roentgenogram.

(c) A report of autopsy or biopsy shall include a detailed gross (macroscopic) and microscopic description of the lungs or visualized portions of the lungs. If an operative procedure has been performed to obtain a portion of a lung, the evidence should include a copy of the operative note and the pathology report of the gross and microscopic examination of the surgical specimen. If an autopsy has been performed, the evidence should include a complete copy of the autopsy report.

Autopsy or biopsy report requirements.

4. Determining medical equivalence. (a) An individual's impairment shall be determined to be medically the equivalent of an impairment listed in the appendix to this subpart only if the medical findings with respect thereto are at least equivalent in severity and duration to the listed findings of the listed impairment.

Determination of medical equivalence.

(b) Any decision made under 2, (a) and 6, (a) as to whether an individual's impairment is medically the equivalent of an impairment listed in the appendix to this subpart, shall be based on medical evidence demonstrated by medically acceptable clinical and laboratory diagnostic techniques, including a medical judgment furnished by one or more physicians designated by the board, relative to the question of medical equivalence.

Medical basis for decision.

Diagnostic techniques. Medical judgment.

(c) Any decision as to whether a medical test is medically equivalent to the test described in 2, (b) shall be based on appropriate medical evidence, including a judgment furnished by one or more physicians designated by the board, relative to the question of the medical equivalence of such test.

Medical test.

Medical judgment.

5. Evidence of origin of pneumoconiosis. (a) If a miner was employed for ten (10) years or more in coal

Presumption of origin of pneumoconiosis.

HeinOnline -- 1971 vol. I 789 1971

mines and is suffering or has suffered from pneumoconiosis, it will be presumed, in the absence of evidence to the contrary, that the pneumoconiosis arose out of such employment.

Burden of proof on miner claimant.

(b) In any other case, a miner suffering or who has suffered from pneumoconiosis must submit the evidence necessary to establish that the pneumoconiosis arose out of employment in the coal mines.

Determination of cause of death.

6. Death due to pneumoconiosis. (a) A miner's death will be determined to have been due to pneumoconiosis if the miner suffered from a chronic dust disease of the lung which meets the requirements of 1, (a); or

Presumptions.

(b) If a deceased miner was employed for ten (10) years or more in coal mines and died from a respirable disease, it will be presumed, in the absence of evidence to the contrary, that his death was due to pneumoconiosis. Death will be found due to a respirable disease when death is ascribed to a chronic dust disease, or to another chronic disease of the lung. Death will not be found due to a respirable disease in those cases in which the disease reported does not suggest a reasonable possibility that death was, in fact, due to pneumoconiosis (e.g., cancer of the lung, disease due to trauma, pulmonary emboli); or

Burden of proof.

(c) Under circumstances other than those in paragraphs (a) or (b) of this section, the claimant must submit the evidence necessary to establish that the miner's death was due to pneumoconiosis and that the pneumoconiosis arose out of employment in coal mines."

Finding of total disability.

Medical specifications.

Section 5. Appendix. A miner with pneumoconiosis, as evidenced in 3, of this part, plus one of the following sets of medical specifications, may be found to be under a total disability, in the absence of evidence rebutting such finding:

(1) Airway obstruction demonstrated on spirogram by MVV and FEV_1 equal to or less than the values specified in the following table:

Height (Inches)	MVV(MBC) equal to or less than L./Min.	and FEV_1 equal to or less than L.
57 or less	32	1.0
58	33	1.0
59	34	1.0

HeinOnline -- 1971 vol. I 790 1971

60	35	1.1
61	36	1.1
62	37	1.1
63	38	1.1
64	39	1.2
65	40	1.2
66	41	1.2
67	42	1.3
68	43	1.3
69	44	1.3
70	45	1.4
71	46	1.4
72	47	1.4
73 or more	48	1.4

or

(2) Total vital capacity equal to or less than the values specified in the following table:

Height (Inches)	V.C. equal to or less than (L.)
57 or less	1.2
58	1.3
59	1.3
60	1.4
61	1.4
62	1.5
63	1.5
64	1.6
65	1.6
66	1.7
67	1.7
68	1.8
69	1.8
70	1.9
71	1.9
72	2.0
73 or more	2.0

or

Diffusing capacity of lungs.

(3) Diffusing capacity of the lungs for carbon monoxide less than 6 ml./mm. Hg./min. (steady-state methods) or less than 9 ml./mm. Hg./min. (single-breath methods) or less than thirty percent (30%) of predicted normal (all methods—actual value and predicted normal for the method used should be reported); or

HeinOnline -- 1971 vol. I 791 1971

Arterial oxygen saturation.

(4) Arterial oxygen saturation at rest and simultaneously determined arterial p CO_2 equal to, or less than, the values specified in the following table:

Arterial p CO_2	and Arterial O_2 saturation equal to or less than (%)
30 mm. Hg. or below	93
31 mm. Hg.	93
32 mm. Hg.	92
33 mm. Hg.	92
34 mm. Hg.	91
35 mm. Hg.	91
36 mm. Hg.	90
37 mm. Hg.	89
38 mm. Hg.	88
39 mm. Hg.	88
40 mm. Hg. or above	87

Cor pulmonale.

(5) Cor pulmonale with right-sided congestive failure as evidenced by peripheral edema and liver enlargement, with:

(A) Right ventricular enlargement or outflow tract prominence on X-ray or fluoroscopy; or

(B) ECG showing QRS duration less than 0.12 second and R of 5 mm. or more in V_1 and R/S of 1.0 or more in V_1 and transition zone (decreasing R/S) left of V_1; or

Congestive heart failure.

(6) Congestive heart failure with signs of vascular congestion such as hepatomegaly or peripheral or pulmonary edema, with:

(A) Cardio-thoracic ratio of fifty-five percent (55%) or greater, or equivalent enlargement of the transverse diameter of the heart, as shown on the teleroentgenogram (6-foot film); or

(B) Extension of the cardiac shadow (left ventricle) to the vertebral column on lateral chest roentgenogram and total of S in V_1 or V_2 and R in V_5 or V_6 of 35 mm. or more on ECG.

Amending clause.

Section 6. Section 92-1321, R.C.M., 1947, is amended to read as follows:

"92-1321. **Compensation benefits payable under this**

HeinOnline -- 1971 vol. I 792 1971

act. The compensation to which an employee temporarily totally disabled or permanently totally disabled by an occupational disease, or his beneficiaries and dependents in the case of death caused by an occupational disease, shall be entitled to under this act shall be the same payments which are payable to an injured employee, and such payments shall be made for the same period of time, as is provided in cases of temporary total disability, permanent total disability and in cases of injuries causing death under the Workmen's Compensation Act of the state of Montana. *Benefit payments for total disability or death due to pneumoconiosis shall, for the purpose of this act, be made as follows:*

Determination of compensation benefits.

Benefits—pneumoconiosis.

a. In the case of total disability of a miner due to pneumoconiosis the disabled miner shall be paid benefits during the disability at the rate of one hundred fifty-five dollars ($155) per month.

Total disability.

$155 per month.

b. In the case of death of a miner due to pneumoconiosis or of a miner receiving benefits under this part, benefits shall be paid to his widow (if any) at the rate the deceased miner would receive such benefits if he were totally disabled.

Benefits paid to widow.

c. In the case of an individual entitled to benefit payments under clause a, or b, who has one or more dependents, the benefit payments shall be increased at the rate of fifty per centum (50%) of such benefit payments, if such individual has one (1) dependent, seventy-five per centum (75%) if such individual has two (2) dependents, and one hundred per centum (100%) if such individual has three (3) or more dependents."

Increase for dependents.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 8. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Severability clause.

Section 9. This act is effective on its passage and approval.

Effective immediately.

Approved March 3, 1971

HeinOnline -- 1971 vol. I 793 1971

CHAPTER NO. 191

An Act Amending Section 80-1601, R.C.M. 1947, Providing for Institutions Subject to Per Diem Charge by Adding Foster Home Care and Group Home Care Provided Under the Jurisdiction of the Aftercare Division of the Department of Institutions; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 80-1601, R.C.M. 1947, is hereby amended to read as follows:

Department of institutions duty to collect per diem payments for care.

"80-1601. **Institutions subject to per diem charge.** The state department of institutions shall collect and process per diem payments for the care of residents in the following institutions *and for the care of those persons in foster homes or group homes under the jurisdiction of the aftercare division of the department of institutions:*

(1) Montana children's center

(2) Warm Springs state hospital

(3) Boulder River school and hospital

(4) Galen state hospital

(5) Montana veterans' home

(6) Montana center for the aged

(7) Eastmont training center."

Effectively immediately.

Section 2. This bill will be effective upon passage and approval.

Approved March 3, 1971

CHAPTER NO. 192

An Act to Amend Sections 41-801, 41-804, 41-808 and 41-810, R.C.M. 1947, Relating to Vocational Rehabilitation and Education.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 41-801, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 794 1971

"41-801. **Definitions.** As used in this act: Definitions.

(a) "State board" means the state board of education; "State board."

(b) "Division" means the division of vocational rehabilitation established by this act; "Division."

(c) "Director" means the director of the division of vocational rehabilitation; "Director."

(d) "Employment handicap" means a physical or mental condition which constitutes, contributes to or if not corrected, will probably result in an obstruction to occupational performance; "Employment handicap."

(e) "Disabled individual" means any person *with an impairment of a physical or mental nature that can be diagnosed by a physician or appropriate specialist;* "Disabled individual."

(f) "Vocational rehabilitation" and "vocational rehabilitation services" mean any services, provided directly or through public or private instrumentalities, found by the director to be necessary to compensate a disabled individual for his employment handicap, and to enable him in so far as possible to engage in a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational guidance, counseling and placement, rehabilitation training, physical restoration, transportation, occupational licenses, customary occupational tools and equipment, maintenance, and training books and materials, *facilities for groups of handicapped, service to family members and follow-up service;* "Vocational rehabilitation" and "vocational rehabilitation services."

(g) "Rehabilitation training" means all necessary training provided to a disabled individual to compensate for his employment handicap including, but not limited to, manual, preconditioning, prevocational, vocational, and supplementary training and training provided for the purpose of achieving broader or more remunerative skills and capacities; "Rehabilitation training."

(h) "Physical restoration" means any medical, surgical or therapeutic treatment necessary to correct or substantially reduce a disabled individual's employment handicap within a reasonable length of time including, but not limited to, medical, psychiatric, dental and surgical treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for "Physical restoration."

HeinOnline -- 1971 vol. I 795 1971

acute or transitory conditions, *(except medical care for acute conditions during the course of a rehabilitation plan which, if not corrected, would constitute a hazard to plan completion);*

"Prosthetic appliance."

(i) "Prosthetic appliance" means any artificial device necessary to support or take the place of a part of the body or to increase the acuity of a sense organ;

"Occupational licenses."

(j) "Occupational licenses" means any license, permit or other written authority required by any governmental unit to be obtained in order to engage in an occupation;

"Maintenance."

(k) "Maintenance" means money payments not exceeding the estimated cost of subsistence during vocational rehabilitation;

"Regulations."

(l) "Regulations" means regulations made by the director with the approval of the state board;

"Rehabilitation plan."

(m) "Rehabilitation plan" means a plan for providing services that will render a disabled individual employable and is jointly developed by the client and a representative of this division."

Amending clause.

Section 2. Section 41-804, R.C.M. 1947, is amended to read as follows:

State board shall provide services through division.

"41-804. **Administration.** Except as otherwise provided by law, the state board, through the division, shall provide vocational rehabilitation services to disabled individuals determined by the director to be eligible therefor, and, in carrying out the purposes of this act, the division is authorized, among other things,

Authority granted.

Co-operation with other agencies.

(a) to co-operate with other departments, agencies and institutions, both public and private, in providing for the vocational rehabilitation of disabled individuals, in studying the problems involved therein, and in establishing, developing and providing, in conformity with the purposes of this act, such programs, facilities and services as may be necessary or desirable;

Research and statistics.

(b) to conduct research and compile statistics relating to the vocational rehabilitation of disabled individuals."

Amending clause.

Section 3. Section 41-808, R.C.M. 1947, is amended to read as follows:

Eligibility requirements.

"41-808. **Eligibility for vocational rehabilitation.** Vocational rehabilitation services shall be provided to any

HeinOnline -- 1971 vol. I 796 1971

disabled individual (1) who is *in* the state at the time of filing his application therefor and whose vocational rehabilitation, the director determines after full investigation, can be satisfactorily achieved, or (2) who is eligible therefor under the terms of an agreement with another state or with the federal government: Provided, that, except as otherwise provided by law or as specified in any agreement with the federal government with respect to classes of individuals certified to the state board thereunder, the following rehabilitation services shall be provided at public cost only to disabled individuals found to require financial assistance with respect thereto:

Services provided at public cost.

(a) Physical restoration;

(b) Transportation not provided to determine the eligibility of the individual for vocational rehabilitation services and the nature and extent of the services necessary;

(c) Occupational licenses;

(d) Customary occupational tools and equipment;

(e) Maintenance;

(f) Training books and materials."

Section 4. Section 41-810, R.C.M. 1947, is amended to read as follows:

Amending clause.

"41-810. **Hearings.** Any individual applying for or receiving vocational rehabilitation who is aggrieved by any action or inaction of the *division* shall be entitled, in accordance with regulations, to a fair hearing by the state board."

Hearings.

Approved March 3, 1971

CHAPTER NO. 193

An Act Amending Section 11-709, R.C.M. 1947, Providing Four Year Terms for Mayors and Aldermen and Providing Staggered Terms for Aldermen, Deleting Obsolete Language and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-709, R.C.M. 1947, is amended to read as follows:

Amending clause.

HeinOnline -- 1971 vol. I 797 1971

Municipal elections—first Monday of April—every second year.

"11-709. **Biennial elections in cities and towns—terms of office.** On the first Monday of April of every second year a municipal election must be held, at which the qualified electors of each town or city must *elect the officers of the city as defined in section 11-701 whose terms of office will expire, with aldermen to be voted for by the wards they respectively represent;* the mayor to hold office

Terms of office—4 years.

for a term of *four (4)* years, and until the qualification of his successor; and each alderman so elected to hold office for a term of *four (4)* years, and until the qualification of his successor; and also in cities of the first, second and third class, a police judge and a city treasurer, who shall hold office for a term of *four (4)* years, and until the qualifica-

Staggered terms—1973 elections.

tions of their successors; provided, however, *that in the election to be held the first Monday of April, 1973, one alderman from each ward will be elected for a term of two (2) years and one alderman from each ward will be elected for a term of four (4) years, and in the next succeeding election and thereafter, one alderman from each ward will be elected for a four (4) year term. The city council shall by resolution determine which office of alderman in each ward shall be for a term of two (2) years and which for four (4) years at the election to be held on the first Monday of April, 1973.*"

Effective December 31, 1972.

Section 2. This act is effective on December 31, 1972.

Approved March 3, 1971

CHAPTER NO. 194

An Act to Amend Section 32-21-149, R.C.M. 1947, Relating to Restrictions Placed on Tire Equipment; Permitting the Use of Specially Designed Pneumatic Tires When Required for Safety Because of Snow, Ice or Other Conditions Tending to Cause a Vehicle to Skid and Fixing Penalty.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-21-149, R.C.M. 1947, is amended to read as follows:

"32-21-149. **Restrictions as to tire equipment.**

Rubber tire requirement.

(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one (1) inch thick above the edge of the flange of the entire periphery.

HeinOnline -- 1971 vol. I 798 1971

(b) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the roadway. Use of metal tires prohibited.

(c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and except also that it shall be permissible to use tire chains of reasonable proportions or pneumatic tires, the traction surfaces of which have been embedded with material such as wood, wire, plastic or metal, *which shall in no instance protrude more than one-sixteenth (1/16) of an inch beyond the tire tread,* upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid. *The use of pneumatic tires embedded as herein provided shall be permitted only between the first day of October and the last day of May of each year, except that one such tire may be used for a spare in case of tire failure.* Use of protruding material except rubber prohibited. Exceptions. Farm machinery. Tire chains. Imbedded traction surfaces for safety. Limited use. October 1 through May 31.

(d) The commission and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon the highway would otherwise be prohibited under this act. Special permits.

(e) Any person violating the terms of this act shall be guilty of misdemeanor." Violation—misdemeanor.

Approved March 3, 1971

CHAPTER NO. 195

An Act Amending Section 10-605.1, R.C.M. 1947, Providing to Include Information as to Parents in a Preliminary Inquiry Petition Concerning a Child's Delinquency.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 10-605.1, R.C.M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1971 vol. I 799 1971

Proceeding for determining juvenile delinquency.

"10-605.1. **Preliminary inquiry — disposition — petition.** (1) Whenever any person informs the court that a child is a delinquent as defined in this act the court shall cause, by citation or otherwise, the child to be brought before the court or the juvenile probation officer for the purpose of making a preliminary inquiry to determine whether the interests of the child or the public require that further action be taken. The matter may be handled by an informal adjustment including the placing of the child on probation, or the court may order the county attorney to file a petition charging the child with being a juvenile delinquent.

Title on petition.

(2) If a petition is filed the proceeding shall be entitled, "In the matter of ....., a child under eighteen (18) years of age." Any record made on any juvenile matter shall not be open to public examination without order of the court.

Requirements of petition.

(3) The petition shall be prepared and signed by the county attorney and shall contain a brief recitation of the facts which bring the child within the provisions of this act, and, shall include such *information as to parents,* residence and other matters as will properly inform the court on the matter."

Approved March 3, 1971

CHAPTER NO. 196

An Act Amending Sections 69-4509 and 69-4510, R.C.M. 1947, By Revising the Qualifications of a Local Health Officer.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-4509, R.C.M. 1947, is amended to read as follows:

Powers and duties—local boards of health.

"69-4509. **Functions, powers and duties of local boards of health.** (1) Local boards shall:

Health officer.

(a) appoint a local health officer who is a physician *or a person with a master's degree in public health or equivalent and appropriate experience as determined by the executive officer* and fix his salary;

HeinOnline -- 1971 vol. I 800 1971

(b) elect a chairman and other necessary officers; Officers.

(c) employ necessary qualified staff; Staff.

(d) adopt bylaws to govern meetings; By-laws.

(e) hold regular meetings quarterly and hold special meetings as necessary; Meetings.

(f) supervise destruction and removal of all sources of filth which cause disease; Removal of filth.

(g) guard against the introduction of communicable disease; Guard against disease.

(h) supervise inspections of public establishments for sanitary conditions. Inspections.

(2) Local boards may:

(a) quarantine persons who have communicable diseases; Quarantine.

(b) require isolation of persons or things which are infected with communicable diseases; Isolation.

(c) furnish treatment for persons who have communicable diseases; Treatment.

(d) prohibit the use of places which are infected with communicable diseases; Prohibit use.

(e) require and provide means for disinfecting places which are infected with communicable diseases; Disinfecting.

(f) accept and spend funds received from a federal agency, the state, a school district, or other persons; Funds.

(g) contract with another local board for all, or a part of, local health services; Contracts.

(h) reimburse local health officers for necessary expenses incurred in official duties; Expenses.

(i) abate nuisances affecting public health and safety; Abate nuisances.

(j) adopt necessary regulations and fees for the control and disposal of sewage from private and public buildings not currently connected to any municipal system. Fees shall be deposited with the county treasurer; Regulations and fees.

(k) adopt rules, which do not conflict with rules adopted by the state board; Rules.

HeinOnline -- 1971 vol. I 801 1971

Control of disease. (i) for the control of communicable diseases,

Removal of filth. (ii) for the removal of filth which might cause disease or adversely affect public health,

Sanitation. (iii) on sanitation in public buildings which affects public health,

Utilities. (iv) for heating, ventilation, water supply and waste disposal in public accommodations which might endanger human lives."

Amending clause. Section 2. Section 69-4510, R.C.M. 1947, is amended to read as follows:

Powers and duties—local health officers. "69-4510. **Local health officers — powers and duties.** (1) Local health officers, or their authorized representatives, shall:

Inspections. (a) make inspections for sanitary conditions;

Orders. (b) as directed by the local board, issue written orders for the destruction and removal of all filth which might cause disease;

Closing of facilities. (c) with written approval of the executive officer, order buildings or facilities where people congregate closed during epidemics;

Reports. (d) on forms provided by the department, report communicable diseases to the executive officer each week;

Account of activities. (e) before the first day of January, April, July and October, give a report to the local board of sanitary conditions in the county, city, city-county or district, together with a detailed account of his activities on forms, and containing information required by the department;

Copy of reports. (f) before the tenth day after the report is given to the local board, send a copy of the report required by subsection (1) (e) of this section to the department;

Quarantine. (g) as prescribed by rules adopted by the state board, establish and maintain quarantines;

Disinfection. (h) as prescribed by rules adopted by the state board, supervise the disinfection of places at the expense of the local board when a period of quarantine ends;

Notices. (i) notify the state health department of his appointment and any changes in membership of the local board;

HeinOnline -- 1971 vol. I 802 1971

(j) file a complaint with the appropriate court if provisions of this chapter or rules adopted by the local or state board under the provisions of this chapter are violated. File suit.

(2) With approval of the executive officer, local health officers may forbid persons to assemble in any place if the assembly endangers public health. Forbid assemblage.

(3) A local health officer, who is a physician, may be placed in charge of a communicable disease hospital, but a local health officer, who is a physician, is not required to act as a physician to the indigent. A local health officer, who is not a physician, shall not act as a physician to anyone." Hospital duty.

Approved March 3, 1971

CHAPTER NO. 197

An Act Amending Section 69-5201, R.C.M. 1947, Further Defining Long-Term Care Facility to Include Intermediate Care Facilities.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 69-5201, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-5201. **Definitions.** As used in this chapter, unless the context clearly indicates otherwise: Definitions.

(1) "Hospital" means a place which for twenty-four (24) hours or more in each week: "Hospital."

(a) provides diagnosis, treatment, or care for two (2) or more nonrelated individuals who are suffering from illness, disease, injury, or deformity; or

(b) provides obstetrical, surgical, or other medical or nursing care for two (2) or more nonrelated individuals.

(c) The term includes public health centers and medical facilities.

(2) "Hospital related facility" means a facility which provides: "Hospital related facility."

HeinOnline -- 1971 vol. I 803 1971

(a) diagnosis, treatment, or care of individuals suffering from mental illness or mental retardation; or

(b) care or treatment for more than one (1) woman within six (6) months who is pregnant or who has delivered not more than ten (10) days before. The woman may not be related by blood or marriage to the person who owns or manages the facility.

"Long-term care facility."

(3) "Long-term care facility" means a place operated for profit or not, which provides to a total of four (4) or more persons, any of the following: nursing, personal care, and maintenance; provided that this decision applies only to such persons as are unable to properly care for themselves. "Long-term care facility" also means a place operated for profit or not, which provides sheltered care to four (4) or more aged persons not related to the operator by blood or marriage. It includes:

"Extended care facilities."

(a) "extended care facilities" which are facilities primarily furnishing regular, organized, medical services for skilled convalescent and/or rehabilitative care, following transfer from a hospital after a period of acute illness;

"Nursing homes."

(b) "nursing homes" which are facilities furnishing skilled nursing care and related services;

"Intermediate care facilities."

(c) "intermediate care facilities which are facilities furnishing limited nursing services and providing personal care and services to residents not in need of continuous skilled nursing care;

"Personal care homes."

(d) "personal care homes" which are facilities providing personal care and services to residents not in need of skilled nursing care;

"Boarding homes."

(e) "boarding homes" which are facilities providing only maintenance and sheltered care;

Combination facilities.

(f) facilities providing combinations of services provided by *intermediate care facilities,* extended care facilities, nursing homes, personal care homes, and boarding homes.

Exclusions.

(4) "Long-term care facility" does not include:

(a) a hospital, sanitarium, or other institution whose principal activity is the care and treatment of persons suffering from mental or nervous illness;

(b) hotels, motels, boarding houses, rooming houses, or similar accommodations.

HeinOnline -- 1971 vol. I 804 1971

(5) "Person" means any person, firm, partnership, association or corporation, or governmental unit; "Person."

(6) "Governmental unit" means the state, a state agency, any county, municipality, political subdivision of the state or an agency of any political subdivision; "Government unit."

(7) "Resident" means a person who is in a long-term care facility as a patient or for personal or sheltered care; "Resident."

(8) "Facility" means a hospital, hospital related facility or long-term care facility. "Facility."

(9) "Registered facility" means a place which would otherwise fall within the above definition of "long-term care facility", but which provides nursing, personal care, or maintenance care to more than one (1) and less than four (4) persons." "Registered facility."

Approved March 3, 1971

CHAPTER NO. 198

An Act to Amend Section 75-7011, R.C.M. 1947, Providing for Liability Insurance for School Buses.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-7011, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-7011. **Power of trustees to purchase and operate bus, contract for bus services, operate a two-way radio, and insure either type of bus.** The trustees of any district shall have the power to: (1) purchase or rent a school bus; Authority granted school trustees. School bus.

(2) purchase or rent a two-way radio for a school bus when the trustees authorize a two-way radio as standard equipment in a school bus because such bus is operated where weather and road conditions may constitute a hazard to the safety of the school pupil passengers; Two-way radio.

(3) provide for the operation, maintenance and insurance of a school bus or a two-way radio owned or rented by the district; or Insurance.

(4) contract with a private party for the transportation of eligible transportees and such contract shall not exceed the term of five (5) years. Contract with private party.

HeinOnline -- 1971 vol. I 805 1971

Radio frequency.

When the trustees authorize a two-way radio as standard equipment on a school bus, the two-way radio may be operated on the same frequency as that used by the Montana highway patrol and the sheriff of the county when their permission and the permission of the federal communications commission is secured. If permission is not secured from these agencies, the frequency assigned by the federal communications commission shall be used for the operation of the two-way radios.

Compliance with standards.

When the trustees contract with any private party to provide transportation to eligible transportees, the private party shall comply in every respect with the regulations of the board of education for the standards of equipment, operation and safety of the school bus, and qualifications of the driver. The trustees may, in contracting with private parties, require added safeguards by supplementing the board of education policies in the contract with additional requirements for bus specifications, age of drivers, liability insurance, operating speed or any other contractual condition deemed necessary by the trustees.

Added safeguards.

Auto liability insurance limits—$10,000 per person—$100,000 per accident.

Whenever a bus is owned and operated by a district or the bus is operated by a private party under a contract but no condition of such contract requires the private party to carry liability insurance, the trustees shall carry automobile bodily injury and liability insurance in an amount not less than *ten thousand dollars ($10,000)* per person and *one hundred thousand dollars ($100,000)* for each accident for each bus operated by or under contract with the district.

Installment contracts.

When a district purchases a school bus, the trustees may purchase such school bus under an installment contract which will be completely executed within three years from the date of the purchase. The trustees also may purchase a school bus without advertising for bids under the provisions of section 75-6808."

Approved March 3, 1971

CHAPTER NO. 199

An Act to Amend Section 32-3601, R.C.M. 1947, Relating to County Tax Levies for Construction, Maintenance, or Improvement of Public Highways.

HeinOnline -- 1971 vol. I 806 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-3601, R.C.M. 1947, is amended to read as follows: Amending clause.

"32-3601. **General road tax.** (1) To raise revenue for the construction, maintenance, or improvement of public highways, each board of county commissioners may levy a general tax upon the taxable property in the county of not more than twelve (12) mills, *except in fourth, fifth, sixth and seventh class counties which may levy not more than fifteen (15) mills,* payable to the county treasurer. The tax from freeholders shall be collected the same as other taxes, and from non-freeholders as the board may direct. 12 mill levy authorized for public highways.

(2) This section shall not apply to incorporated cities and towns which, by ordinance, provide for the levy of a like tax for road, street, or alley purposes. Exceptions.

(3) All moneys collected under this section shall belong to the county road fund." County road fund.

Approved March 3, 1971

CHAPTER NO. 200

An Act to Amend Section 75-6111, R.C.M. 1947, Providing Alternatives for Teachers During the State Teachers' Association Convention.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-6111, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-6111. **Attendance of state teachers' association annual session.** *When the trustees of a school district close the schools of the district for the annual session of the state teachers' association, a teacher may (1) attend the annual session without loss of salary, or* Teacher may attend annual convention or perform duties of employment.

(2) Work at his school and perform duties related to his position of employment as may be prescribed by the trustees, without loss of salary.

If a teacher does neither (1) nor (2) above, he shall not be paid."

Approved March 3, 1971

HeinOnline -- 1971 vol. I 807 1971

CHAPTER NO. 201

An Act to Amend Section 3-2911 and Section 3-2913, R.C.M. 1947, Relating to the Assessment of Wheat Grown In the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 3-2911, R.C.M. 1947, is amended to read as follows:

Annual assessment on wheat grown in state. "3-2911. **Annual assessment on wheat grown.** There is hereby levied an annual assessment of two and one-half (2½) mills per bushel upon all wheat grown in the state of Montana, and sold through commercial channels beginning August 20, 1967. The assessment is hereby levied and imposed on each grower of wheat in the state of Montana:

Sale. (1) in the case of sale of wheat, at the time of any sale of wheat by a grower, and shall be collected by the first purchaser of the wheat from the grower at the time of each settlement for wheat purchased, or

Pledge or mortgage. (2) in the case of a pledge or mortgage of wheat as security for a loan under any federal price support program, the assessment shall be collected by deducting the amount thereof from the proceeds of such loan at the time the loan is made by the agency or person making the loan.

Collection. The assessment levied under the provisions of this act, shall be deducted and collected as provided by this act, whether such wheat is stored in this or any other state. The assessment shall attach to each transaction, but no grower shall be subject to assessment more than once irrespective of the number of times it shall be the subject of a sale, pledge, mortgage or other transaction, the assessment being imposed and attaching on the initial sale, pledge, mortgage or other transaction in which the wheat grower parts with title to the wheat, or creates some interest therein in a pledgee, mortgagee or other person.

Amending clause. Section 3-2913, R.C.M. 1947, is amended to read as follows:

"3-2913. **Buyer's delivery of invoice to grower — form — filing of sworn statement — payment of assessment.**

Delivery of invoices. (1) The purchaser of the wheat at the time of settlement therefor on sale, or the pledgee or mortgagee or

HeinOnline -- 1971 vol. I 808 1971

other lender at the time of its loan or advance, shall make and deliver separate invoices for each purchase to the grower. Such invoices shall be on forms approved by the administrative committee showing. Forms.

(a) the name and address of the grower and seller,

(b) the name and address of the purchaser or the lender,

(c) the number of bushels of wheat sold, mortgaged or pledged,

(d) the date of the purchase, mortgage or pledge and the amount of assessment collected and remitted to the commissioner of agriculture.

(2) The purchaser, mortgagee, or pledgee shall deliver to and have on file with the wheat research and marketing division of the department of agriculture, on forms prescribed by the division, by the twentieth (20th) day of each calendar month following any calendar month in which purchaser shall purchase wheat of a grower or in which a lender makes any loan or advance on wheat of a grower beginning on August 20 in the year 1967, a sworn statement of the number of bushels of wheat purchased in Montana or the number of bushels mortgaged or pledged, or otherwise transferred or liened as security for a loan, during the preceding calendar month. At the time the sworn statement is filed, the purchaser or lender shall pay and remit to the commissioner the assessment provided for in this act for deposit in the wheat research and marketing account in the revolving fund. Delivery of sworn statement of wheat transactions. Payment of assessment.

(3) The statement referred to in subsection (1) (2) of this section, shall be legibly written and shall be entirely free of any corrections or erasures on the face thereof. Any person who shall alter any part of any statement shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as is provided herein. Penalty for alteration of statement.

(4) At any time after thirty (30) days from the deduction of the assessment and before the expiration of ninety (90) days following such deduction by the first purchaser or the first lender, the grower may, upon the submission of a written, verified request therefor to the administrative committee through the commissioner of agriculture obtain a refund in the amount of the assessment Grower may obtain refund. Request to committee.

HeinOnline -- 1971 vol. I 809 1971

Invocies.

Records of refunds.

deducted by said first purchaser or said first lender. The request shall be accompanied by the original invoices received by the grower at the time of settlement. The wheat research and marketing division shall keep complete records of all refunds made under the provisions of this act. Records of refunds may be destroyed two (2) years after the refund is made. All original invoices shall be returned to the grower with the refund payment.''

Approved March 3, 1971

CHAPTER NO. 202

An Act to Amend Section 84-1847, R.C.M. 1947, Relating to the Gasoline License Tax Providing for a Tax of Seven Cents (7¢) Per Gallon; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1847, R.C.M. 1947, is amended to read as follows:

Gasoline distributor's license tax.

"84-1847. **Gasoline license tax — amount.** Every distributor shall pay to the state board of equalization a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to *seven cents (7¢)* for each gallon of all gasoline distributed by him within the state and upon which the gasoline license tax has not been paid by any other distributor. Gasoline exported or sold for export out of the state of Montana shall not be included in the measure of the distributor's license tax.''

7c per gallon.

Effectively immediately.

Section 2. This act shall be effective on passage and approval.

Approved March 3, 1971

CHAPTER NO. 203

An Act to Amend Sections 66-1012, 66-1013, 66-1023, 66-1025, 66-1028, 66-1029, 66-1030, R.C.M. 1947, of the Medical Practice Act Providing for the Issuance of Physician's Certificates to Doctors of Osteopathy, Alter-

HeinOnline -- 1971 vol. I 810 1971

ing the Composition of the Board of Medical Examiners to Include One Doctor of Osteopathy, Expanding the Definition of Approved Medical Schools, Internships and Residencies to Include Schools Accredited by the American Osteopathic Association and Internships and Residencies Approved by the American Osteopathic Association.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-1012, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-1012. **Practice of medicine defined — exemptions from licensing requirements.** (1) For the purpose of this act the term "practice of medicine" shall mean: "Practice of medicine defined."

(a) the practice of medicine by any person shall mean the diagnosis, treatment or correction of, or the attempt to, or the holding of oneself out as being able to diagnose, treat or correct any and all human conditions, ailments, diseases, injuries or infirmities, whether physical or mental, by any means, method, devices or instrumentalities.

If any person who does not possess a license to practice medicine within this state, as in this act provided, and who shall not be exempted from the licensing requirements hereunder, shall do any of the acts hereinabove mentioned as constituting the practice of medicine, he shall be deemed to be practicing medicine without complying with the provisions of this act and in violation thereof. License required. Violation.

(2) Nothing herein shall be construed to prohibit, or to require a license hereunder with respect to, any of the following acts: Exceptions.

(a) the gratuitous rendering of services in cases of emergency and catastrophe or either of them; Emergencies.

(b) the rendering of services in this state by a physician lawfully practicing medicine in another state or territory, provided, that if any such physician does not limit such services to an occasional case or if he has any established or regularly used hospital connections in this state or if he maintains or is provided with, for his regular use, any office or other place for the render- Out-of-state physician.

HeinOnline -- 1971 vol. I 811 1971

ing of such services, he must possess a license to practice medicine in this state;

Dentistry.

(c) the practice of dentistry under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

Chiropody.

(d) the practice of chiropody (podiatry) under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

Optometry.

(e) the practice of optometry under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

Osteopathy.

(f) the practice of osteopathy under the conditions and limitations defined *in sections 66-1401 to 66-1413, inclusive, of the Revised Code of Montana, 1947, as amended or as hereafter amended, for those doctors of osteopathy who do not receive a physician's certificate under this act*;

Chiropractic.

(g) the practice of chiropractic under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

Christian science.
Ritual circumcision.

(h) the practice of Christian Science, with or without compensation; and ritual circumcisions by rabbis;

Commissioned medical officers.

(i) the performance by commissioned medical officers of the armed forces of the United States of America or of the United States public health service or of the United States veterans administration of their lawful duties in this state as such officers;

Nursing services.

(j) the rendering of nursing services by registered or other nurses in the lawful discharge of their duties as such;

Training interns and residents.

(k) the rendering of services by interns or resident physicians in a hospital or clinic in which they are training, except as otherwise provided herein, subject to the conditions and limitations provided by this act;

Paramedical specialists.

(l) the rendering of services by a physical therapist, technician, or other paramedical specialist, under the personal and responsible direction and supervision of a person licensed under the laws of this state to practice medicine, but nothing in this exemption shall be deemed to extend the scope of any such paramedical specialist; and

HeinOnline -- 1971 vol. I 812 1971

(m) the practice by persons licensed under any law of this state as now or hereafter enacted to practice a limited field of the healing arts and not hereinbefore specifically designated, under the conditions and limitations defined by such law; Healing arts.

Provided, however, that all licensees in this subsection (2) designated or referred to, who are licensed to practice a limited field of healing arts, shall confine themselves to the field for which they are licensed or registered and to the scope of their respective licenses, and shall not use the title M.D., or any word or abbreviation to indicate, or to induce others to believe that he or she is engaged in the diagnosis or treatment of persons afflicted with disease, injury or defect of body or mind except to the extent and under the conditions expressly provided by the law under which they are licensed." Practice confined to scope of license. Use of titles.

Section 2. Section 66-1013, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-1013. **State board of medical examiners — qualifications and appointment.** There is hereby created the Montana state board of medical examiners, herein referred to as the board, which shall consist of seven (7) members, to be appointed by the governor, with the advice and consent of the senate, as herein provided, and to have the qualifications herein prescribed. Upon the taking effect of this act, the state board of medical examiners, as constituted under the laws of this state immediately prior thereto, is hereby abolished but the members thereof shall constitute the initial board under this act and the respective terms of such members shall extend through and expire on September 1 of the year during which their respective terms, as determined by their appointment under such prior law, would have expired. The terms of their successors shall be so arranged as to succeed the present incumbents as their terms expire. The board shall be comprised at all times of *six (6)* members having the degree of doctor of medicine, *and one (1) member having the degree of doctor of osteopathy,* all of whom shall be citizens of the United States and shall have been licensed and shall have practiced medicine in this state for at least five (5) years, not more than one (1) of whom, *except for the member having the degree of doctor of osteopathy,* shall be from the same county to insure reasonable representation on said board State board of medical examiners created. Composition. Initial board. Term of office. Qualifications of members.

HeinOnline -- 1971 vol. I 813 1971

from the several parts of the state, and, all of whom shall have been residents of this state for at least five (5) years. *After the effective date of this act the governor shall appoint a person, who holds the degree of doctor of osteopathy and is licensed under this act, to the vacancy which occurs on the board after July 1, 1972; and the five (5) year requirement of practice and residency shall be waived for this initial appointment. However, if no person holding the degree of doctor of osteopathy is licensed under this act as of July 1 1972, then a person holding the degree of doctor of medicine shall be appointed, and a person holding the degree of doctor of osteopathy shall be appointed to the board as soon as such a person becomes licensed under this act, is willing to serve, and a subsequent vacancy occurs.* All vacancies occurring shall be filled by appointment or reappointment by the governor with the advice and consent of the senate. Appointments made when the senate is not in session shall take effect immediately, and may be confirmed at the next ensuing session of the senate. Each member of the board shall, before he enters upon the duties of his office, take an oath or affirmation to support the constitution of the United States and of the state of Montana and faithfully to perform the duties of the office upon which he is about to enter. Members of the board shall remain in office until their successors have been appointed. A member of the board may, upon notice and hearing, be removed by the governor for neglect of duty, incompetence or unprofessional or dishonorable conduct."

Appointment by governor of doctor of osteopathy.

July 1, 1972.

Alternative appointment.

Vacancies.

Oath.

Removal for cause.

Amending clause.

Section 3. Section 66-1023, R.C.M. 1947, is amended to read as follows:

"66-1023. **Practice authorized by certificate — physician's certificate.** The physician's certificate, which may be issued only to citizens of the United States, authorizes the holder to perform one or more of the acts embraced in section 66-1012, *R.C.M. 1947*, in a manner reasonably consistent with his training, skill and experience."

Physician's certificate.

Amending clause.

Section 4. Section 66-1025, R.C.M. 1947, is amended to read as follows:

"66-1025. **Qualifications for licensure — physician's certificates, reciprocity and endorsement.** (1) Subject to the other provisions and conditions of this act, a physician's certificate, or a certificate by reciprocity or a

Basis for granting certificates.

HeinOnline -- 1971 vol. I 814 1971

certificate by endorsement shall be granted by the board to an applicant therefor only upon the basis of:

Examination.

(a) the passing by the applicant of an examination given and graded by the board; or

Certificate of examination by other examiners.

(b) a certification of record or other certificate of examination issued to or for the applicant by the National Board of Medical Examiners, or successors, or by the Federation Licensing Examination Committee, or successors, certifying that the applicant has passed an examination given by such board; or

Out-of-state license or certificate—reciprocity.

(c) a valid, unsuspended and unrevoked license or certificate issued to the applicant on the basis of an examination, by a duly constituted examining board under the laws of any other state or any territory of the United States or of the District of Columbia or of any foreign country whose licensing standards at the time such license or certificate was issued were, in the considered judgment of the board, essentially equivalent to those of the state of Montana for the granting of a license to practice medicine, provided:

Authorized to practice.

(i) that under the scope of such license or certificate that the applicant was authorized to practice medicine in such state, territory or country;

Failure to pass examination.

(ii) that no applicant who applies for a license on the basis of an examination and fails the examination shall thereafter be granted a license based on credentials from another state, territory or foreign country or on a certificate issued by the National Board of Medical Examiners, or successors, or by the Federation Licensing Examination Committee or successors;

Board may change reciprocity.

(iii) that the board may, by specific regulation, prescribe and enforce reciprocity or endorsement requirements current with changes in standards in the practice of medicine; and

Board may require examination.

(iv) that the board may, in the case of an applicant for admission by reciprocity, or endorsement, require a written or oral examination of said applicant; and

Foreign medical school graduates.

(v) the board may require that graduates of foreign medical schools shall have passed the examination given by the Education Council for Foreign Medical Graduates, or successors.

HeinOnline -- 1971 vol. I 815 1971

Examination—certification of doctor of osteopathy.

(vi) holders of the degree of doctor of osteopathy will be certified only on the basis of taking and passing the examination given by the board."

Amending clause.

Section 5. Section 66-1028, R.C.M. 1947, is amended to read as follows:

Approved medical school defined.

"66-1028. **Approved medical school.** An approved medical school is a school which *either (a) is accredited by the American Osteopathic Association, or (b)* conforms to the minimum education standards as established by the Council on Medical Education of the American Medical Association or successors for medical schools or is equivalent in the sound discretion of the board of medical examiners of the state of Montana, it being provided that the board shall have the authority upon investigation of the educational standards and facilities thereof to approve any other medical school, including foreign medical schools."

Amending clause.

Section 6. Section 66-1029, R.C.M. 1947, is amended to read as follows:

Approved internship defined.

"66-1029. **Approved internship.** An approved internship is an internship training program of at least one (1) year in a hospital *which is either (a) approved for intern training by the American Osteopathic Association, or (b) conforms* to the minimum standards for intern training established by the Council on Medical Education of the American Medical Association or successors; provided, however, that the board shall have the authority, upon investigation, to approve any other internship."

Amending clause.

Section 7. Section 66-1030, R.C.M. 1947, is amended to read as follows:

Approved residency defined.

"66-1030. **Approved residency.** An approved residency is a residency training program in a hospital conforming to *(a)* the minimum standards for residency training established by the Council on Medical Education of the American Medical Association or successors *or (b) approved for residency training by the American Osteopathic Association;* provided, however, that the board shall have the authority upon investigation to approve any other residency. The board may require a resident physician to be licensed if he otherwise engages in the practice of medicine in the state of Montana."

Approved March 3, 1971

HeinOnline -- 1971 vol. I 816 1971

CHAPTER NO. 204

An Act Providing Simplified Administrative Procedures in the Taxation of Aviation Gasoline for Allocation to the Aeronautics Commission by Subjecting Such Gasoline to a One Cent (1¢) Per Gallon Tax Rather Than the Present Seven Cents (7¢) and by Allowing No Deduction, Refund, or Exemption from the Tax; Delet-. Aviation Gasoline from Those Provisions of the Gasoline License Tax Laws Which Provide Evaporation Allowances and Credit Refunds; Providing a Definition of "Aviation Dealer"; Providing a New Section Numbered 84-1855.1, R.C.M. 1947, Imposing a Penalty; Amending Sections 84-1846, 84-1847, 84-1849, 84-1851, 84-1853 and 84-1855, R.C.M. 1947; Repealing Section 84-1848, R.C.M. 1947, Pertaining to Aviation Gasoline Tax Exemption Certificates.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1846, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"84-1846. **Definitions.** As used in this act, the following definitions shall apply: Definitions.

(1) The term "gasoline" includes all products commonly or commercially known or sold as gasolines, including casinghead gasoline, natural gasoline, aviation gasoline and all flammable liquids, composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. The term "gasoline" does not include special fuels as defined in section 84-1831 (e). "Gasoline."

(2) The word "person" means any person, firm, association, joint-stock company, syndicate or corporation. "Person."

(3) The words "motor vehicle" means all vehicles operated or propelled upon the public highways or streets of this state, in whole or in part by the combustion of gasoline. "Motor vehicle."

(4) The word "use" shall include and mean the operation of motor vehicles upon the public roads or highways of the state of Montana, or of any political subdivision thereof. "Use."

HeinOnline -- 1971 vol. I 817 1971

"Import." (5) The word "import" shall include and mean to receive into any person's possession or custody first after its arrival and coming to rest at destination within the state of Montana of any gasoline shipped or transported into this state from point of origin without this state, other than in the fuel supply tank of a motor vehicle.

Gasoline deemed "distributed." (6) Gasoline deemed to be "distributed". (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks thereat, or gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks thereat, or gasoline imported into this state and placed in storage at refineries or pipeline terminals, shall be deemed to be distributed, for the purpose of this act, at the time the gasoline is withdrawn from such tanks, refinery or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such tanks, refinery or terminal, such gasoline may be distributed only by a person who is the holder of a valid distributor's license.

(b) Gasoline imported into this state other than that gasoline placed in storage at refineries or pipeline terminals, shall be deemed to be distributed after it has arrived in and is brought to rest in this state.

"Distributor" defined. (7) The word "distributor" means

(a) any person who engages in the business in this state of producing, refining, manufacturing or compounding gasoline for sale, use or distribution,

(b) any person who imports gasoline for sale, use or distribution; and no refund shall be allowed of that portion of the tax per gallon upon aviation gasoline allocated to the state aeronautics commission by section 1-501.

(c) any dealer licensed as of January 1, 1969, except a dealer at an established airport.

"Aviation gasoline." (8) The words "aviation gasoline" means gasoline or any other liquid fuel by whatsoever name such liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all such gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

HeinOnline -- 1971 vol. I 818 1971

(9) "Aviation dealer" means any person in this state engaged in the business of selling aviation gasoline either from a wholesale or retail outlet on which the license tax has been paid to a licensed distributor as herein provided for."

"Aviation dealer."

Section 2. Section 84-1847, R.C.M. 1947, is hereby amended to read as follows:

Amending clause.

"84-1847. **Gasoline license tax — amount.** Every distributor shall pay to the state board of equalization a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to *one cent (1¢) for each gallon of aviation gasoline, which shall be allocated to the aeronautics commission as provided by section 1-501, R.C.M. 1947, as amended, and seven* cents (*7¢*) for each gallon of all *other* gasoline distributed by him within the state and upon which the gasoline license tax has not been paid by any other distributor. Gasoline exported or sold for export out of the state of Montana shall not be included in the measure of the distributor's license tax."

Distributor's license tax.

1c per gallon of aviation gasoline and 7c per gallon all other gasoline.

Section 3. Section 84-1848, R.C.M. 1947, is hereby repealed in its entirety.

Repealing clause.

Section 4. Section 84-1849, R.C.M. 1947, is hereby amended to read as follows:

Amending clause.

"84-1849. **Distributors' statements — payment of the tax.** Each distributor shall, not later than the twenty-fifth day of each calendar month render a true statement to the state board of equalization, duly signed, of all gasoline distributed and received by him in this state during the preceding calendar month, and containing such other information as the state board of equalization may reasonably require in order to administer the gasoline license tax law. The statement shall be accompanied by a payment in an amount equal to the tax imposed by section 3 (84-1847) of this act, less any refund credit issued under section 11 (84-1855) of this act, and less two percent (2%) of the first six cents (6¢) tax which shall be deducted by the distributor as an allowance for evaporation and other loss of gasoline distributed by such distributor; *provided, however, that no such allowance shall be deducted from the one cent (1¢) tax on aviation gasoline.*

Distributor's monthly statement to state board of equalization.

Payment.

Any distributor engaged in or carrying on his business

HeinOnline -- 1971 vol. I 819 1971

at more than one (1) place or location in this state may include all such places of business in one (1) statement."

Amending clause.

Section 5. Section 84-1851, R.C.M. 1947, is hereby amended to read as follows:

Distributor shall keep records three years.

"84-1851. **Records to be kept.** Each distributor *or any other person dealing in, transporting, receiving or storing gasoline* shall keep for a period not to exceed three (3) years such records, receipts and invoices and any other pertinent papers and information as the state board of equalization may require."

Amending clause.

Section 6. Section 84-1853, R.C.M. 1947, is hereby amended to read as follows:

Delivery of invoice to purchaser.

"84-1853. **Invoice of distributors** *and aviation dealers.* Each distributor *and aviation dealer* in this state shall at the time of delivery, except where authorized by the board, issue to the purchaser an invoice in which shall be stated the number of gallons of gasoline covered by such invoice and such other information as the state board of equalization may require."

Amending clause.

Section 7. Section 84-1855, R.C.M. 1947, is hereby amended to read as follows:

Refund of tax paid on gasoline for use off highways.

"84-1855. **Refund of gasoline license tax — procedure.** (1) Any person who shall purchase and use any gasoline, on which the Montana gasoline license tax has been paid, for operating or propelling stationary gasoline engines, tractors used off the public highways and streets, motorboats, or for cleaning or dyeing, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state, shall be allowed a refund of the amount of tax paid directly or indirectly on the gasoline so used. Provided, that such refund or drawback should in no instance exceed the tax paid or to be paid, to the state of Montana.

Erroneous payment refund.

Any distributor paying the gasoline license tax to this state erroneously shall be allowed a credit or refund of the amount of tax so paid.

Requirements of application for refund.

The application for refund shall be a signed statement on forms furnished by the board, accompanied by the invoice or invoices issued to the claimant, showing the total amount of the gasoline on which a refund is claimed and the reason, the amount of the tax and any additional

HeinOnline -- 1971 vol. I 820 1971

information required by the board. Each separate delivery shall constitute a purchase. If any invoice is either lost or destroyed, the purchaser may support his claim for refund by submitting an affidavit relating the circumstances of such loss or destruction and by producing such other evidence as may be required by the board.

Filing requirement.

(2) All applications for refunds shall be filed with the board of equalization within thirteen (13) months after the date on which the gasoline was purchased as shown by invoices or after the date on which the tax was erroneously paid. Provided, however, that a distributor may file a claim for refund of taxes erroneously paid within three (3) years after the date of such erroneous payment. The board shall have one hundred twenty (120) days after receiving the claim to approve or reject it. If approved, the board shall issue a credit in lieu of refund for the amount of the claim, if the claimant is a distributor. For all other persons, a warrant shall be drawn upon the state treasurer for the amount of the claim.

Claim based on erroneous payment.

Determinations by board.

(3) Should the board of equalization find that the statement contains errors which are not fraudulently inserted, it may correct the statement and approve it as corrected, or the board may require the claimant to file an amended statement. If the state board of equalization determines that any claim has been fraudulently presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the claim or affidavit is willfully false and made for the purpose of misleading, the board may reject such claim in full. If a claim is rejected, the board may suspend claimant's right to refund for a period not to exceed one (1) year.

Suspension.

Permit to claim refund.

(4) Any person, other than a licensed distributor, desiring to claim refund on gasoline purchased shall obtain a permit from the state board of equalization. The application for permit shall contain the applicant's name, address, occupation, nature of business, identification of machinery and equipment in which the taxable motor fuel is to be used, and any other information which may be required by the board.

Records of refunds.

(5) Each permit issued shall bear a permit number and each claim filed shall bear the permit number of the claimant. The state board of equalization shall keep a record of all permits issued and a cumulative record of refunds claimed and paid thereunder.

HeinOnline -- 1971 vol. I 821 1971

Permit fee $1.

A fee of one dollar ($1) shall be collected from each person to whom a refund permit is issued. No refund shall be paid to any person unless said person has first secured a refund permit and paid said fee. The refund permit must be renewed and the license fee paid every five (5) years from the date of issuance.

Renewal.

Permit to sell gasoline subject to refund.

(6) Any person, other than a licensed distributor, shall obtain a permit from the state board of equalization prior to selling gasoline on which a refund may be claimed. The application for permit shall contain the applicant's name, address, place or places of business in the state of Montana, and other information which may be required by the board. Permits issued shall bear a permit number and the date of issuance. The board shall keep a record of all permits issued, canceled, or suspended. Permits shall be issued for the calendar year upon payment of a fee of one dollar ($1) and must be renewed annually before the first day of January.

Fee.

Renewal.

Penalties for noncompliance.

Any person failing to comply with this subsection shall be subject to a fine of not less than twenty-five dollars ($25) or more than two hundred dollars ($200) or imprisonment in the county jail for a period not less than ten (10) days or more than sixty (60) days, or both fine and imprisonment."

Unlawful use of aviation gasoline.

Section 8. 84-1855.1. **Unlawful use of aviation gasoline.** It shall be unlawful for any person to use aviation gasoline, or to sell such gasoline for use, in any motorized vehicle operated upon the public highways or streets of this state. Violation of this section shall be a misdemeanor subject to the penalties provided in section 84-1859, R.C.M. 1947.

Misdemeanor.

Approved March 3, 1971

CHAPTER NO. 205

An Act to Amend Section 79-1202, R.C.M. 1947, Relating to the Investment of Surplus Treasury Cash by Providing that the State Board of Land Commissioners Determine the Existence of Surplus Treasury Cash; Repealing Sections 79-303 and 79-304, R.C.M. 1947.

HeinOnline -- 1971 vol. I 822 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 79-1202, R.C.M. 1947, is amended to read as follows: Amending clause.

"79-1202. **Moneys to be invested according to unified plan.** 1. The state board of land commissioners is hereby authorized and required to invest the Montana trust and legacy fund subject to the provisions, regulations and limitations of sections 81-1001 to 81-1008, inclusive. Required investment of trust and legacy fund.

2. The state board of land commissioners is hereby authorized and required to invest in the long-term investment fund the following: Moneys administered by the Montana highway patrolmen's retirement board in excess of twenty-five thousand dollars ($25,000); moneys administered by the public employees' retirement board; moneys administered by the industrial accident board; all moneys subject to investment as designated by the teachers' retirement board; moneys designated as available by the Montana fish and game commission and all other moneys designated by statute. Moneys in the long-term investment fund may be invested as follows: Required investment in long term investment fund. Limitations on investments.

(a) In or upon securities which are direct obligations of the United States government; securities which are guaranteed as to principal and interest by the United States government; securities issued by instrumentalities of the United States government. U.S. government securities.

(b) In general obligation bonds of school districts within the state of Montana; in general obligation bonds of the several counties and cities of the state of Montana; in general obligation bonds of the state of Montana; in capitol building bonds of the state of Montana, now issued or which may hereafter be issued; in bonds issued by the federal land banks; in bonds issued by the state board of examiners to construct an unemployment compensation commission office building including the landscaping and paving around said building, upon land adjacent to the capitol buildings; in bonds or other securties which may be issued for the construction of a physical education building at the state industrial school, provided that sufficient income from fees collected under section 80-816 shall be pledged for the retirement of such bonds or other securities; in interest-bearing warrants upon the general fund of the state and in interest-bearing General obligation bonds and others. Limitations. Warrants.

HeinOnline -- 1971 vol. I 823 1971

warrants upon the general fund, the poor fund, the road fund, the retirement fund, or upon the bridge fund of the several counties and school districts of the state of Montana; the purchase of all such investments to be subject to the discretion of the board.

Obligations of named agencies.

(c) In the obligations, and/or stock where stated, of the following agencies of the government of the United States of America, whether or not such obligations are guaranteed by such government;

(1) Commodity credit corporation.

(2) Federal intermediate credit banks.

(3) Federal land banks.

(4) Central bank for cooperatives.

(5) Federal home loan banks, and stock thereof.

(6) Federal national mortgage association, and stock thereof when acquired in connection with sale of mortgage loans to such association.

First mortgages.

(d) In first mortgages on unencumbered real property when such mortgages are guaranteed or insured in the amount of thirty *percent* (30%) or more of the loan made in the event of default by the United States government or any agency or corporate agency of the United States government and in obligations of housing authorities subject to the terms and limitations of section 35-143, and in unencumbered real property, and in first mortgages of unencumbered real property, not exceeding seventy-five percent (75%) of the value of the property, provided, however, no more than fifty percent (50%) of the funds in one (1) account shall be invested in such mortgages and real property.

First mortgage bonds, debentures, notes.

(e) In first mortgage bonds, debentures, notes and other evidences of indebtedness issued, assumed or guaranteed by any solvent and operating corporation existing under the laws of the United States of America or any state thereof which bonds, debentures, notes and other evidences of indebtedness are, at the time of such investment, within the three (3) highest quality grades for the rating of such bonds, debentures, notes and other evidences of indebtedness by any nationally recognized investment rating agency.

HeinOnline -- 1971 vol. I 824 1971

(f) In equipment trust obligations or certificates adequately secured and evidencing an interest in transportation equipment, wholly or in part within the United States of America, which obligations or certificates carry the right to receive determined portions of rental, purchase, or other fixed obligatory payments to be made for the use or purchase of such transportation equipment, and which obligations or certificates are, at the time of such investment, within the three (3) highest quality grades for the rating of such obligations or certificates by any nationally recognized investment rating agency. Equipment trust obligations.

All securities purchased and all cash on hand for each fund shall be kept separate in the long-term investment fund and all interest collected shall be credited to the fund for which the securities were purchased. Separation for each fund.

3. The state board of land commissioners is hereby authorized and required to invest in the short-term investment fund any surplus cash in the office of the state treasurer *determined to be surplus by the state board of land commissioners;* any money in the sinking fund, which is not required for the immediate payment of any bond principal or interest, or which cannot be used for payment and redemption of bonds outstanding because of the same not being redeemable under the option provisions contained therein; any Montana highway patrolmen's retirement moneys less than twenty-five thousand dollars ($25,000) as directed by the Montana highway patrolmen's retirement board and any other moneys designated by statute to be so invested or any moneys in the custody of any officer or officers of the state, or any governing body of any city, county or school district, the investment of which moneys is requested by the officer, or officers or governing body and which moneys are subject to investment. The moneys in the short-term investment fund may be invested as follows: Required investments in short term investment fund. Limitations on investments.

(a) The surplus cash in the office of the state treasurer may be invested in registered warrants of the state of Montana, *in interest-bearing deposits in banks located in the state of Montana that are deposited in accordance with the requirements and procedures that are specified in section 79-301, R.C.M. 1947,* and in treasury obligations of the United States government. All warrants purchased State warrants. Bank deposits. U.S. treasury obligations.

HeinOnline -- 1971 vol. I 825 1971

shall bear no interest and the interest received from treasury obligations shall be credited to the general fund of the state of Montana.

State and federal bonds.

(b) Any sinking fund and any other moneys may be invested in bonds of the state of Montana, bonds of the United States, in bonds issued by any agency or department of the United States, treasury obligations of the United States, and in interest-bearing warrants drawn against the general fund of the state of Montana; provided, however, that none of such moneys in the sinking fund shall be invested in bonds or securities except such as will be called in and paid at least fifteen (15) days prior to the time such moneys are required for the payment of principal and interest.

Separation for each fund.

All securities purchased and all cash on hand for each account or subfund shall be kept separate in the short-term investment fund and all interest collected shall be credited to the account or subfund for which the securities were purchased.

Employment of financial expert.

The state board of land commissioners is hereby authorized to employ, for the purpose of securing advice on retention, sale or purchase of securities, an expert on financial matters who has had a minimum of ten (10) years' experience in the investment field. The said board is also authorized to obtain financial and investment counsel and services from qualified persons and sources on a fee or contract basis."

Repealing clause.

Section 2. Sections 79-303 and 79-304, R.C.M. 1947, are repealed.

Approved March 3, 1971

CHAPTER NO. 206

An Act Providing for Construction or Replacement of Alley Approaches Without Formation of Special Improvement Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section in Cities and Towns, Title 11, chapter 22, R.C.M. 1947, which reads as follows:

HeinOnline -- 1971 vol. I 826 1971

11-2226.1. **Construction of alley approaches without formation of special improvement district.** The city council may order alley approaches constructed or replaced adjacent to any lot or parcel of land without the formation of a special improvement district, and whenever the council shall order any such alley approaches constructed or replaced, such order shall be entered upon the minutes of the council and shall name the street along which said alley approach is to be constructed or replaced. What constitutes an alley approach shall be defined by the city council of each municipality which orders in alley approaches as provided in this section. After the making of such order, written notice thereof shall be given the owners or agents of all adjacent owners having access to their properties by said alley approach, in such a manner as the council may direct. If the owners or agents of all adjacent owners of such lots or parcels of land shall fail or neglect for a period of thirty (30) days after the date of service of such notice to cause such alley approaches to be constructed or replaced, the city may construct or cause such alley approach to be constructed, and shall assess the cost thereof, including engineering costs and the costs enumerated in section 11-2228 of this code, against the lots or parcels of land having access to said property via the said constructed alley approaches.

City council may order alley approaches constructed.

Notice to adjacent owners.

On failure of owners to construct within 30 days, city may construct and assess costs.

When any such alley approach is constructed by or under direction of the city council, payment for the construction thereof shall be made by special warrants in such form as may be prescribed by ordinance drawn against a fund to be known as special alley approach fund, which warrants shall bear interest at the rate of up to six percent (6%) a year, and the council may provide for the payment of said interest annually.

Payment by special warrant.

Interest 6% per annum.

The payment of assessments to defray the cost of construction of said alley approach may be spread over a term of not to exceed eight (8) years, payment to be made in equal annual installments.

Term not to exceed 8 years.

The city council shall annually, and before the first Monday of October of each year, pass and adopt a resolution levying an assessment and tax against each lot or parcel of land having access to said property via the said alley approach which has been constructed under

Annual assessment by city.

HeinOnline -- 1971 vol. I 827 1971

orders of the city council. Said resolution levying such assessment shall be in every manner prepared and certified the same as resolutions levying assessments for the making of improvements in special improvement districts.

Approved March 4, 1971

CHAPTER NO. 207

An Act to Approve and Legalize and Adopt as Prima Facie the Laws of Montana the Second Replacement of Part 1 of Volume Number 4 and Replacement Volume Number 8 of the R.C.M. 1947, as Published by the Publishers and Distributors of Said Codes; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Replacement volumes part 1 of number 4 and number 8 of R.C.M., 1947 adopted.

Section 1. The second replacement of part 1 of volume number 4 and replacement volume number 8 of the R.C.M. 1947, as published by the publishers and distributors of said R.C.M. 1947, are hereby, as to both form and substance, approved, legalized and adopted as prima facie the laws of Montana now in force and effect with respect to the titles and subjects covered thereby. The sections of said replacement volumes may be cited as sections of the R.C.M. 1947, without reference to the session laws which enacted new matter or to the session laws which have amended the sections of the R.C.M. 1947, as included in the original compilation of the R.C.M. 1947.

Validation clause.

Section 2. Nothing herein contained shall be deemed as invalidating or in any manner affecting the legality of any act or thing heretofore or hereafter done by authority or any enactment which is not included in said replacement volumes and nothing herein contained shall affect the existence, validity, or enforcement of any act, enactment, or title thereof, statute, or code section, omitted from or erroneously, or incorrectly set forth in said replacement volumes.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved March 4, 1971

HeinOnline -- 1971 vol. I 828 1971

CHAPTER NO. 208

An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments or Obligations, Heretofore Issued by Public Bodies of this State, and All Proceedings Heretofore Taken by Such Public Bodies, to Authorize and Issue Such Bonds, Instruments and Other Obligations, However Described, and Providing that This Act May Be Cited as 'The 1971 Bond Validating Act'; Containing a Repealing Clause and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

The 1971 bond validating act.

Section 1. This act may be cited as "The 1971 Bond Validating Act."

Definitions.

Section 2. The following terms, wherever used or referred to in this act, shall have the following meanings:

"Public body."

(1) The term "public body" shall include a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other political or governmental subdivision of the state of Montana, and shall also include the state board of education, the state board of examiners, the state water conservation board, the state highway commission, or any other governmental agency of this state.

"Bonds."

(2) The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

Validation clause.

Section 3. All bonds heretofore issued by any public body of this state, and all proceedings heretofore taken for the authorization and issuance of such bonds, for the levy, establishment, pledge and appropriation of taxes, special asseessments and other charges and revenues to pay such bonds, and for the sale, exchange, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the

HeinOnline -- 1971 vol. I 829 1971

governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, exchange, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, exchange, execution or delivery, and bonds of such public bodies, whether heretofore issued or hereafter issued under the authority of proceedings heretofore taken, are and shall be binding, legal, valid and enforceable obligations of such political body.

Actions or appeals prior to January 1, 1971.

Section 4. This act shall not apply to or affect any action or appeal instituted on or before January 1, 1971, in which the validity of any such proceedings or of any such bonds is at issue.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act is effective on its passage and approval.

Approved March 4, 1971

CHAPTER NO. 209

An Act Requiring a Licensed Truck or Trailer Dealer to Secure a Demonstration Permit for Purposes of Demonstration Only. Affixing the Fees and Terms of Said Permits, Affixing a Penalty and Repealing Sections 53-118.1, 53-118.2, 53-118.3, 53-118.4 and 53-118.5, R.C.M. 1947, Enacted as Section 2, Chapter 36, Laws of 1965.

Be it enacted by the Legislative Assembly of the State of Montana:

Dealer demonstration of trucks authorized.

Section 1. **Demonstration of trucks and trailers authorized — dealer's plate to be used.** A new or used truck or trailer dealer licensed under section 53-118 may demonstrate to a prospective purchaser any truck, truck tractor, trailer or semitrailer, owned by or consigned to said dealer, or otherwise controlled by said dealer, by payment of the fees required in this section; provided the vehicle displays the dealer's registration plate or other current Montana registration and the demonstration permit provided in Title 32, chapter 33, R.C.M. 1947, chapter 197, Laws of 1965.

Display of registration and permit.

HeinOnline -- 1971 vol. I 830 1971

Section 2. **Application for truck demonstration permit — form and contents — number of permits authorized.** The licensed dealer shall obtain the demonstration permit upon application to the Montana highway commission and payment of eight dollars ($8) for each permit and the payment of this fee shall be in lieu of fees required under Title 32, chapter 33. The form of such permits and the application therefor shall be provided by the state highway commission under such rules and regulations as they may prescribe and shall be designed so that the licensed dealer may fill in the necessary information thereon and such permit will be validated by the dating, inserting of name and address of the prospective purchaser, and affixing thereto the signature of said licensed dealer. The licensed dealer may obtain more than one (1) but not to exceed five (5) demonstration permits with each application.

Application for permit.

Fee $8.

Forms.

Maximum 5 permits.

Section 3. **Operation under truck demonstration permit — period of permit — rental under permit prohibited.** Vehicles displaying said permit may be operated either laden or unladen. Each of the said permits shall expire seven (7) days from and after the date of validation by the licensed dealer.

Permit expires after 7 days.

A demonstration permit shall not be issued to the same prospective purchaser for the demonstration of the same vehicle or vehicles for more than one (1) seven (7) day period.

Limitations on use.

The vehicle operating with the demonstration permit shall not be leased or rented by the licensed dealer or operated for compensation by the licensed dealer whatsoever.

Section 4. **Violation of truck demonstration provisions.** Violation of any provision of this section shall be deemed a misdemeanor and subject to the provisions of section 32-3316. For the purposes of this section, a licensed dealer shall be considered the owner.

Violation— misdemeanor.

Section 5. **Disposition of truck demonstration fees.** Fees collected under this section shall be disposed of in the manned provided in section 32-3204, R.C.M. 1947.

Disposition of fees.

Section 6. Sections 53-118.1, 53-118.2, 53-118.3, 53-118.4

Repealing clause.

HeinOnline -- 1971 vol. I 831 1971

and 53-118.5, R.C.M. 1947, enacted as in section 2, chapter 36, Laws of 1965, are hereby repealed.

Approved March 4, 1971

CHAPTER NO. 210

An Act to Prohibit Insurers from Cancelling a Professional Liability Insurance Policy or Increasing the Premium Rates Thereon Because of Claims, Demands or Lawsuits that are Determined to be Unfounded or Where Nonliability is Established.

Be it enacted by the Legislative Assembly of the State of Montana:

Professional liability insurer may not cancel or increase rates when action for damages is determined in insured's favor.

Section 1. Whenever an action for damages is filed against, or a claim or demand for damages, is made to an insurer of, a physician and surgeon, dentist, registered nurse, licensed physical therapist, podiatrist, psychologist, osteopath, chiropractor, pharmacist, optometrist or veterinarian, duly licensed as such under the laws of this state, or against a licensed hospital as the employer of any such person, in an action, claim or demand for error, omission, professional negligence, or performance of services without consent, and such action, claim or demand is later determined to be unfounded and no payment is made by the insurer to the claimant on behalf of such licensee or licensed hospital or is finally determined to establish nonliability to plaintiff by such licensee or licensed hospital, the fact of such litigation, claim or demand shall not be a ground for cancellation nor for any increase in insurance premium rates of the professional liability insurance during the term of the policy.

Approved March 4, 1971.

CHAPTER NO. 211

An Act Amending Powers and Duties of the State Board of Equalization in Section 84-708, R.C.M. 1947, Relating to the Assessment and Apportionment of Public Utility Companies, by Adding an Alternative Method of Apportionment of the Valuation for Assessment of Such Company Among the Several Counties of This

HeinOnline -- 1971 vol. I 832 1971

State in Such Proportion as in the Judgment of the Board Will Fairly Represent the Valuation for Assessment Within Each Such County, Utilizing Commonly Recognized Methods of Apportioning as in its Judgment Shall Be Just and Equitable, and to Provide an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-708, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-708. **Powers and duties.** It shall be the duty of the board and it shall have power and authority in addition to any authority under the present statutes: Powers and duties —state board of equalization.

(1) To prescribe rules and regulations, not in conflict with the constitution and laws of the state of Montana, to govern county boards of equalization and the assessors of the different counties in the performance of their duties. Rules and regulations.

(2) To prepare and enforce the use of forms in relation to the assessment of property. Forms for assessments.

(3) To annually assess the franchise, roadway, roadbeds, rails, and rolling stock, and all other property of all railroads, and the pole lines and rights of way and all other property of all telegraph and telephone lines, electric power and transmission lines, ditches, canals and flumes, and other similar property, constituting a single and continuous property operated in more than one (1) county in the state, and to apportion such assessments to the counties in which such properties are located on a mileage basis, *or in the case of telegraph or telephone microwave electronic equipment, which has no physical connection with the total system, but is an integral part of such system, apportion the valuation for assessment of such company in this state among the several counties of this state in such proportion as will fairly represent the valuation for assessment within each such county, utilizing commonly recognized methods of apportioning as shall be just and equitable:* provided, however, that lots and parcels of real estate not included in right of way, with the buildings, structures, and improvements thereon, dams and power houses, depots, stations, shops, and other buildings, erected upon right of way, furniture, machinery, and other personal property, shall not be considered as a Annual assessment of public utilities. Apportionment among counties. Exceptions—real estate in one county.

HeinOnline -- 1971 vol. I 833 1971

part of any such single and continuous property, but shall be considered as separate and distinct therefrom, and shall be assessed by the county assessor of the county wherein they are situate.

Transmittal to county clerk.

(4) To transmit to the county clerk of each county its apportionment of all assessments made by such board.

Equalization of valuation among counties.

(5) To adjust and equalize the valuation of taxable property among the several counties, and the different classes of taxable property in any county and in the several counties and between individual taxpayers; supervise and review the acts of county assessors and county boards of equalization; change, increase or decrease valuations made by county assessors or equalized by county boards of equalization; and exercise such authority and do all things necessary to secure a fair, just and equitable valuation of all taxable property among counties between the different classes of property and between individual taxpayers.

Supervision of tax law administration.

(6) To have and exercise general supervision over the administration of the assessment and tax laws of the state, and over assessors, county boards of equalization, boards of county commissioners, and other officers of municipal corporations, having any duties to perform under any of the laws of this state relating to taxation to the end that all assessments of property be made relatively just and equal at true value in substantial compliance with law, and to supervise the administration of all revenue laws of the state and assist in their enforcement, and for that purpose shall call an annual meeting of all county assessors to be held at the state capitol and notice shall be given to each county assessor at least ten (10) days before such meeting, and it shall be the duty of all county assessors to attend and the costs of their attendance shall be paid by the respective counties. Further, the state board of equalization is empowered to organize, and it shall be its duty to schedule and hold area schools within the state for appraisers and assessors as often as is deemed necessary in the judgment of the board and the costs of such appraisers and assessors attending shall be borne by the respective counties. Further, the state board shall determine if there is a need for a taxing, assessing, and appraising school, and such school shall be held, when deemed necessary, on the campus of Montana

Annual meeting of county assessors.

Area schools for appraisers and assessors.

School for taxing, assessing, and appraising.

HeinOnline -- 1971 vol. I 834 1971

state university in cooperation with the bureau of business and economic research and the school of business administration, providing that there are university facilities and authorities available. The board shall notify all assessors and appraisers and county commissioners at least six (6) months before such school is scheduled and it shall be the duty of all assessors and appraisers to attend and the cost of their attendance shall be borne by the respective counties. Further, one (1) or more members of the board shall visit at least one fourth (1/4) of the counties of the state annually, and shall visit every county in the state at least once in four (4) years to examine the work and methods of county assessors, boards of county commissioners, county boards of equalization, and county treasurers in their assessment and equalization of taxes on all kinds of property within the county.

Annual visitations.

Examination of county methods.

(7) To confer with, advise and direct officers of municipal corporations as to their duties, with respect to taxation, under the statutes of the state.

Direction of municipal officers.

(8) To direct proceedings, actions and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities and punishment of public officials and persons, or their agents, for failure or neglect to comply with the provisions of the statutes governing the revenue of the state or municipal corporations; and to cause complaints to be made against assessors and other public officers to the proper district court for their removal from office for official misconduct or neglect of duty.

Enforcement of laws.

(9) To require county attorneys to assist in the commencement and prosecution of actions and proceedings for penalties, forfeitures, removals and punishment for violations of the laws of the state in respect to the assessment of property and other revenue laws, in their respective counties.

County attorneys shall assist.

(10) To collect annually from the proper officers of the municipal corporations information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and such other information as may be needful and helpful in the work of the board in such form and upon such blanks as the board shall prescribe; and it shall be the duty of all public officers so called upon to fill

Annual collection of assessment information.

Forms.

HeinOnline -- 1971 vol. I 835 1971

out properly and return promptly to the board all blanks so transmitted and in every way aid the board in its work; to examine the records of all municipal corporations for such purposes as are deemed needful or helpful by the board.

Examination of municipal records.

(11) In its discretion, to inspect and examine, or cause an inspection and examination of the records of the officers of any municipality, whenever such officer shall have failed, neglected or refused to return properly the information required by this section within the time set by the board. Upon completion of such inspection and examination the board shall transmit to the clerk, or other proper official of the municipality, a statement of the expenses incurred by the board to secure the necessary information. A duplicate of such statement shall be filed in the office of the state board of examiners and when approved and allowed shall be paid the same as other expenses of the board. Within sixty (60) days after the receipt by the municipality of the above statement, the same shall be audited, as other claims of the municipal corporation are audited and shall be paid into the state treasury and if the same is not so paid the attorney general shall institute an action, in the proper court, against the municipality to recover the same.

Statement of expenses.

Duplicate to state board of examiners.

Audit within 60 days.

Action against municipality.

Officers liabilities.

The officers responsible for the furnishing of the information collected pursuant to this section, shall be jointly and severally liable for any loss the municipality may suffer, through their delinquency; and no payment shall be made to them for salary, or on any other account, until the cost of such inspection and examination as provided above shall have been paid into the treasury, or to the proper officers of such municipality. They shall also be subject to such other fines and penalties as prescribed by law.

Board shall require financial information for purposes of evaluation.

(12) To require persons, as defined above, to furnish information concerning their capital, funded or other debt, current assets and liabilities, cost and value of property, earnings, operating and other expenses, taxes and all other facts which may enable the board to ascertain the value of the relative burdens borne by all kinds of property and occupations in the state.

Subpoenas.

(13) To summon witnesses to appear and give evidence, and to produce records, books, papers and docu-

HeinOnline -- 1971 vol. I 836 1971

ments relating to any matter which the board shall have authority to investigate and determine.

Depositions.

(14) To cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken upon notice to the interested party, if any, in like manner that depositions are taken in actions pending in the district court, in any matter which the board shall have authority to investigate and determine.

Examination of evasions or violations.

(15) To examine into all cases where evasion or violation of the laws for taxation of property, proceeds, occupation or business is alleged, complained of or discovered, and to ascertain wherein existing laws are ineffective or are improperly or negligently administered.

Investigation of other tax systems.

(16) To investigate the tax systems of other states and countries and to formulate and recommend legislation for the better administration of the fiscal laws so as to secure just and equal taxation and improvement in the system of taxation and the economical expenditure of public revenue in the state.

Consultations with governor.

(17) To consult and confer with the governor of the state upon the subject of taxation, the administration of the laws relating thereto and the progress of the work of the board, and to furnish the governor such assistance as he may require.

Report to governor and legislature.

(18) To transmit to the governor and to each member of the legislature twenty (20) days before the meeting of the legislature, a report of the board, showing all the taxable property of the state and the value of the same in tabulated form, with recommendations for improvements in the system of taxation, together with such measures as may be formulated for the consideration of the legislature; and to include therein a report showing the selling price of gasoline at the wholesale level in prime market centers of Montana and in surrounding states during the biennium, with indexes tabulated at sufficient intervals to show the comparative state price structures."

Effective immediately.

Section 2. This act is effective upon its passage and approval.

Approved March 4, 1971

HeinOnline -- 1971 vol. I 837 1971

CHAPTER NO. 212

An Act to Amend Section 32-3302.1, R.C.M. 1947, Pertaining to Alternative Licensing Fees on Truck-Trailer Combinations; Providing that a Trailer or Semitrailer Entering the State and Licensed Under Said Section May Be Moved in the Local Delivery Zone Without Payment of Additional Fees.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-3302.1, R.C.M. 1947, is amended to read as follows:

Alternative additional fees on truck-trailer based on gross vehicle weight.

"32-3302.1. **Alternative additional fees on truck-trailer combinations.** In addition to other fees for the licensing of vehicles, there may be paid and collected annually instead of the fees provided in section 32-3301, R.C.M. 1947, enacted as section 6-201, Laws of 1965, for each motor truck or truck-tractor, based upon the maximum combined gross loaded weight of a truck-tractor with a semitrailer, a truck-tractor with a semitrailer and a full trailer, a motor truck and a trailer, or a motor truck and trailers, as set by the licensee in his application, the following fees:

Schedule III

Fees.

Truck-tractor with a semitrailer, a truck-tractor with a semitrailer and a full trailer, a motor truck and a trailer, or a motor truck and trailers:

Up to 42,000 lbs.	$ 571.00
42,001 to 44,000 lbs.	631.00
44,001 to 46,000 lbs.	691.00
46,001 to 48,000 lbs.	752.00
48,001 to 50,000 lbs.	812.00
50,001 to 52,000 lbs.	871.00
52,001 to 54,000 lbs.	931.00
54,001 to 56,000 lbs.	992.00
56,001 to 58,000 lbs.	1,052.00
58,001 to 60,000 lbs.	1,112.00
60,001 to 62,000 lbs.	1,172.00
62,001 to 64,000 lbs.	1,233.00
64,001 to 66,000 lbs.	1,293.00
66,001 to 68,000 lbs.	1,352.00
68,001 to 70,000 lbs.	1,412.00
70,001 to 72,000 lbs.	1,473.00

HeinOnline -- 1971 vol. I 838 1971

72,001 to 74,000 lbs.	.....	1,533.00
74,001 to 76,000 lbs.	.....	1,593.00
76,001 to 78,000 lbs.	.....	1,653.00
78,001 and over	.....	65.50 per ton or fraction thereof.

Payment of the fees provided in this section shall exempt any semitrailer or trailer in combination with a motor truck or truck-tractor so licensed from the fees provided in sections 32-3302, 32-3310, 32-3312, *and 53-129.*

Such trailers or semitrailers must be currently registered in another state or country.

Any trailer or semitrailer entering the state of Montana in combination with a truck or truck-tractor licensed under the above schedule may be moved in the local delivery zone in combination with a truck, truck-tractor, licensed under section 32-3301, R.C.M. 1947, without payment of any additional fees on such truck or truck-tractor, trailer or semitrailer.

Permit obtained from state highway commission.

A permit must be obtained from the state highway commission before such truck-tractor is used in local service and such permit shall be continuous and issued at no fee. Such permit shall not be issued until proof of payment of fees under schedule III has been established."

Approved March 4, 1971

CHAPTER NO. 213

An Act Amending Sections 14-143, 14-145, 14-148, 14-149, and 14-150, Revised Codes of Montana, 1947, All Relating to the Montana Credit Union Act, Providing for Regulating the Organization of Credit Unions, Defining its Powers, Management Duties of the Board of Directors, Officers and Committees and the Operation, Regulation and Inspection of Credit Unions.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 14-143, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 839 1971

Powers and duties of board of directors of credit union.

Membership.

Surety bonds.

Payment of premiums.

Vacancies.

Investments.

Shares.

Interest rates.

Interest refunds.

Compensation.

Executive committee—delegation.

"14-143. **Directors** The board of directors shall meet at least once a month and shall have the general direction and control of the affairs of the credit union. Minutes of all such meetings shall be kept. Among other things they shall act upon applications for membership; require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the supervisor, and authorize the payment of the premium or premiums therefor from the funds of the credit union; fill vacancies in the board and in the credit committee until successors elected at the next annual meeting have qualified; have charge of investments other than loans to members; determine from time to time the maximum number of shares that may be held by an individual; subject to the limitations of this act, determine the interest rates on loans and the maximum amount which may be loaned with or without security to any member; subject to such regulations as may be issued by the supervisor, authorize an interest refund to members of record at the close of business on *the last day of any dividend period* in proportion to the interest paid by them during that *dividend period;* and provide for compensation of necessary clerical and auditing assistance requested by the supervisory committee, and of loan officers appointed by the credit committee. *The board may appoint an executive committee of not less than three (3) directors to act for it in the purchase and sale of securities, the borrowing of funds, and the making of loans to other credit unions. Such executive committee or a* membership officer appointed by the board from among the members of the credit union, other than the treasurer, and assistant treasurer, or a loan officer, *may* be authorized by the board to approve applications for membership under such conditions as the board may prescribe; except that such *committee or* membership officer so authorized shall submit to the board at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require."

Amending clause.

Section 2. Section 14-145, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 840 1971

"14-145. **Supervisory committee.** The supervisory committee shall make or cause to be made, at least *semi-annually,* an examination of the affairs of the credit union, shall make or cause to be made a report of its *semiannual* examination to the board of directors; shall make or cause to be made an annual audit, a report of which shall be submitted to the members at the next annual meeting of the credit union; may suspend by a unanimous vote any officer of the credit union, or any member of the credit committee, or of the board of directors, until the next members' meeting, which members' meeting shall be held not less than seven (7) nor more than fourteen (14) days after such suspension and at which meeting such suspension shall be acted upon by the members; and may call by a majority vote a special meeting of the shareholders to consider any violation of this act, the certificate of incorporation or the bylaws, or any practice of the credit union deemed by the supervisory committee to be unsafe or unauthorized. Any member of the supervisory committee may be suspended by *a majority vote of* the board of directors. The members shall decide, at a meeting held not less than seven (7) nor more than fourteen (14) days after any such suspension, whether the suspended committee member shall be removed from or restored to the supervisory committee. The supervisory committee shall cause the passbooks and accounts of the members to be verified with the records of the treasurer from time to time, and not less frequently than once every two (2) years. As used in this section, the term "passbook" shall include any book, statement of account, or other record setting forth the members' transactions with the credit union."

Examination and report of supervisory committee.

Annual audit.

Suspension of officers.

Special meetings.

Suspension of committee member.

Verification of passbooks and accounts.

"Passbook" defined.

Section 3. Section 14-148, R.C.M., 1947, is amended to read as follows:

Amending clause.

"14-148. **Loans to members.** A credit union may loan to members for provident or productive purposes and made subject to the conditions contained in the bylaws. A borrower may repay his loan in whole or in part, during regular business hours on any day the credit union office is open for business and no penalty or minimum charge may be imposed for payments received in advance of schedule or for any loan paid in full prior to the maturity date. *Loans to its own directors and to members of its own supervisory or credit committee shall be reported to the directors as hereinafter provided, and such a loan may be*

Credit union may loan to members.

Repayment.

Loans to officers and committee members.

HeinOnline -- 1971 vol. I 841 1971

made only if: (1) the loan complies with all lawful requirements under this act with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;

Aggregate loans to borrower shall not unencumbered exceed shares or $5,000.

(2) upon the making of the loan, the aggregate amount of loans outstanding to the borrower will not exceed the total amount of shareholdings in the credit union, not otherwise encumbered or pledged, which are pledged as security for loans to the borrower, or five thousand dollars ($5,000), whichever is greater;

Loans shall not exceed 20% of capital and surplus.

(3) upon the making of the loan, the aggregate amount of loans outstanding under authority of this paragraph will not exceed twenty per centum (20%) of the unimpaired capital and surplus of the credit union;

Financial statement required.

(4) the loan is approved by the credit committee after the submission to them by the borrower of a detailed current financial statement on a form prepared by the credit committee, and reported to the board of directors within thirty (30) days of approval, and

Borrower takes no part.

(5) the borrower takes no part in the consideration of his application and does not attend any committee meeting while his application is under consideration.

Endorsement prohibited.

No director or member of the supervisory or credit committee shall endorse for borrowers."

Amending clause.

Section 4. Section 14-149, R.C.M., 1947, is amended to read as follows:

Reserves.

"14-149. **Reserves.** *(1) Immediately before the payment of each dividend, the gross earnings of the credit union shall be determined. From this amount, there shall be set aside, as a regular reserve against losses on loans and against such other losses as may be specified in regulations prescribed under this act, sums in accordance with the following schedule: (a) ten per centum (10%) of gross income until the regular reserve shall equal seven and one-half per centum (7½%) of the total of outstanding loans and risk assets, then*

Determination.

10% of gross income.

5% of gross income.

(b) five per centum (5%) of gross income until the regular reserve shall equal ten per centum (10%) of the total of outstanding loans and risk assets. Whenever the regular reserve falls below ten per centum (10%), or seven and one-half per centum (7½%) of the total of outstand-

HeinOnline -- 1971 vol. I 842 1971

ing loans and risk assets, as the case may be, it shall be replenished by regular contributions in such amounts as may be needed to maintain the reserve goals of seven and one-half per centum (7½%), or ten per centum (10%).

Contributions.

(2) In addition to such regular reserve, special reserves to protect the interests of members shall be established: (a) when required by regulation; or

Special reserves.

(b) when found by the supervisor, in any special case, to be necessary for that purpose.''

Section 5. Section 14-150, R.C.M., 1947, is amended to read as follows:

Amending clause.

''14-150. **Dividends,** *when declared — how paid. After allocations to the required reserves, a credit union may declare a dividend from undivided earnings at the discretion of its board of directors and as its bylaws may provide. Dividends shall be paid on all fully paid shares outstanding at the close of the dividend period, but shares which become fully paid during the dividend period shall be entitled to a proportional part of the dividends calculated from the first day of the month following such payment in full. Dividend credit for a month may be accrued on shares which are or become fully paid up during the first ten (10) days of that month. No dividends shall be paid on shares which are withdrawn during the dividend period.''*

Dividends may be declared— conditions.

Approved March 4, 1971

CHAPTER NO. 214

An Act Amending Sections 53-101, 53-108, and 53-114, R.C.M., 1947, Relating to the Duties of the Registrar of Motor Vehicles, Renewal of Registration of a Motor Vehicle and Application for Registration of Motor Vehicles.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-101, R.C.M., 1947, is amended to read as follows:

Amending clause.

''53-101. **Duties of registrar of motor vehicles — records.** 1. The warden of the state penitentiary shall be, and is hereby constituted the registrar of motor vehicles,

Warden is registrar of motor vehicles.

HeinOnline -- 1971 vol. I 843 1971

trailers and semitrailers, and as such it shall be his duty to keep a record as hereinafter specified of all motor vehicles, trailers and semitrailers of every kind, and certificates of registration and ownership thereof, and of all dealers in motor vehicles.

Requirements of records for motor vehicles, trailers and semi-trailers.

2. In the case of motor vehicles, trailers and semitrailers, the record shall show the following: Name of owner, residence by town and county, business address, name and address of conditional sales vendor, mortgagee or other lien holder and amount due under contract or lien, manufacturer of car, manufacturer's designation of style of car or vehicle, identifying number, year of manufacture, character of motive power and shipping weight of car as shown by the manufacturer and the distinctive license number assigned such car or vehicle; and, if a truck or trailer, the number of tons capacity, and such other information as may from time to time be found desirable.

Filing and indexing.

3. The registrar shall file applications for registration received by him from the county treasurers of the state and register the vehicles therein described and the owners thereof in suitable books or on index cards, as follows:

(a) Under distinctive license number assigned to vehicle by the county treasurers.

(b) Alphabetically under name of owners.

(c) Numerically under make and identifying number of vehicle.

(d) Such other index of registration as registrar shall deem expedient. Vehicle registration records and indexes, and driver's license records and indexes, may be maintained by electronic recording and storage media.

Dealer records.

4. In the case of dealers the records shall show the information contained in the application for dealer's license as required by section 53-118, as well as the distinctive license number assigned to the dealer.

Employment of help.

5. The registrar of motor vehicles shall appoint such deputies, subordinate officers, clerks, investigators and other employees as may be necessary to carry out this act, providing there be selected as many of the clerical help from the inmates of the state prison as the registrar

HeinOnline -- 1971 vol. I 844 1971

determines to be possible. The salaries of all such appointees shall be fixed by the registrar of motor vehicles as authorized by the state board of examiners, with respect to salaries of other subordinate state officers and employees. Salaries.

6. All office equipment, books, files and records belonging to the motor department shall be in the care and general custody and control of the registrar of motor vehicles at the state penitentiary. In order to prevent an accumulation of *unneeded* records and files the registrar of motor vehicles shall have the authority and it shall be his duty to destroy all *records and files which have ceased to be of any value.* Custody of property. Duty to destroy records of no value.

7. The registrar may establish and maintain a short-wave radio station in order to report motor vehicle registration information to the highway patrol, sheriffs, and to chiefs of police of each incorporated city of the state who are able to communicate with such short-wave radio station. Short-wave radio station.

8. All such records shall be open to inspection during all reasonable business hours and the registrar of motor vehicles shall furnish any information from said records upon payment by the applicant of the cost of transcribing the information requested." Inspection of records.

Section 2. Section 53-108, R.C.M., 1947, is amended to read as follows: Amending clause.

"53-108. **Renewal of registration.** Every vehicle registration under this act shall expire on December thirty-first of each year and shall be renewed annually upon application and payment of license fees, as provided in sections 53-114 and 53-122, such renewal to take effect on the first day of January of each year. The certificate of registration issued hereunder shall be valid during the registration year only for which issued, and the certificates of ownership shall remain valid until canceled by the registrar of motor vehicles upon a transfer of any interest shown therein and need not be renewed annually. Vehicle registrations shall be renewed annually. Validity.

The owner of a vehicle registered under the provisions of this act shall be entitled to operate such vehicles between January first and February fifteenth without displaying the registration certificate of the current year, on condition that such owner shall, during said Owner may operate vehicle until February 15.

HeinOnline -- 1971 vol. I 845 1971

period, display upon such vehicle the number plates or plate assigned thereto for the previous year.

Purchaser of motor vehicle may make affidavit.

Any purchaser of a motor vehicle which has not been registered or reregistered for the current year may during the time the certificate of ownership thereto is in the process of being transferred in the office of the registrar of motor vehicles, upon making an affidavit to that effect upon a form prescribed by the registrar of motor vehicles and upon the payment of a fee of two dollars ($2) to be collected by the county treasurer and remitted to the registrar of motor vehicles, obtain from the county treasurer of the county in which said vehicle is subject to tax a temporary windshield sticker of such size, color and design as the registrar of motor vehicles may prescribe, to be validated by the county treasurer for a period of sixty (60) days from the date of issuance, and such purchaser, upon displaying such sticker on the lower right-hand corner of the windshield of such motor vehicle shall be entitled to operate such vehicle during the period for which such windshield sticker has been validated without displaying the registration certificate or number plates or plate for the current year. Provided, however, the county treasurer shall not sell, or no person shall purchase more than one (1) sixty (60) day temporary windshield sticker for any vehicle, the ownership of which has not changed since the issuance of the previous sixty (60) day windshield sticker. Provided, further, however, that any purchaser of a new or used motor vehicle from a duly licensed motor vehicle dealer shall have the grace period of ten (10) days from the date of purchase to make such application for registration and obtain registration plates, and it shall not be a violation of this chapter or any other law for such purchaser to operate such new or used motor vehicle upon the streets and highways of this state without a certificate of registration and registration plates during the said ten-day period; providing further that such purchaser must have in his possession a valid bill of sale or other satisfactory evidence of ownership."

Form.

Fee $2.

Temporary windshield sticker valid for 60 days.

Limited to one sticker.

Grace period 10 days.

Bill of sale.

Amending clause.

Section 3. Section 53-114, R.C.M., 1947, is amended to read as follows:

"53-114. **Application for registration of motor vehicles and payment of license fees thereon — assessment of motor vehicles in the stock of licensed motor vehicle**

HeinOnline -- 1971 vol. I 846 1971

dealers as merchandise. (1) Every owner of a motor vehicle operated or driven upon the public highways of this state shall, for each motor vehicle owned, except as herein otherwise expressly provided, file, or cause to be filed, in the office of the county treasurer wherein such motor vehicle is owned or taxable, an application for registration, or reregistration, upon blank form to be prepared and furnished by the registrar of motor vehicles, which application shall contain:

Application for registration filed with county treasurer.

Form.

Requirements.

(a) Name and address of owner, giving county, school district, and town or city within whose corporate limits the motor vehicle is taxable.

(b) Name and address of conditional sales vendor, mortgagee or holder of other lien against said motor vehicle, with statement of amount owing under such contract or lien.

(c) Description of motor vehicle, including make, year model, engine *or* serial number, manufacturer's model or letter, gross weight, type of body and, if truck, the rated capacity.

(d) In case of reregistration, the license number for the preceding year.

(e) Such other information as the registrar of motor vehicles may require.

(2) Whoever files an application for registration or reregistration of a motor vehicle except of a mobile home as defined in section 84-101, R.C.M., 1947, shall before filing such application with the county treasurer submit the same to the county assessor of said county and said county assessor shall enter on said application in a space to be provided for that purpose, the full and true and the assessed valuation of said vehicle for the year for which said application for registration is made.

County assessor shall enter assessed valuation

(3) Whoever files an application for registration or reregistration of a motor vehicle except of a mobile home as defined in section 84-101, R.C.M., 1947, shall upon the filing of said application (1) pay to the county treasurer the registration fee, as provided in section 53-122 and section 53-115, and shall also at such time (2) pay the personal property taxes assessed or the new motor vehicle sales tax against said vehicle for the current year of registration (unless the same shall have been theretofore paid

Payment of registration fees and personal property taxes.

HeinOnline -- 1971 vol. I 847 1971

for said year) before the application for registration or reregistration may be accepted by the county treasurer. The county treasurer is hereby empowered to make full and complete investigation of the tax status of said vehicle and any applicant for registration or reregistration must submit proof with respect thereto from the tax records of the proper county at the request of the county treasurer.

Authority to investigate tax status.

Computation of taxes.

(4) The amount of taxes on said motor vehicle, except a mobile home as defined in section 84-101, R.C.M., 1947, shall be computed and determined by the county treasurer on the basis of the levy of the year preceding the current year of application for registration or reregistration and such determination shall be entered on the application form in a space provided therefor.

Motor vehicles assessable as of January 1.

(5) Motor vehicles, except mobile homes as defined in section 84-101, R.C.M., 1947, are hereby declared to be assessable for taxation as of and on the first day of January in each year irrespective of the time fixed by law for the assessment of other classes of personal property, and irrespective of whether or not the levy and tax may be a lien upon real property within the state of Montana, provided that in no event shall any motor vehicle be subject to assessment, levy and taxation more than once in each year.

New vehicles purchased after January 1— payment of sales taxes.

(6) The applicant for original registration of any wholly new and unused motor vehicle except a mobile home as defined in section 84-101, R.C.M., 1947, acquired by original contract after the first day of January of any year shall be required, whenever such vehicle has not been otherwise assessed, to pay the motor vehicle sales tax provided by section 32-3315, R.C.M., 1947, irrespective of whether or not such vehicle was in the state of Montana on the first day of January of such year.

Stamp on application.

(7) Upon accepting application for registration or reregistration of any motor vehicle which is subject to taxation in this state on January 1 in any year, and upon payment of taxes, the county treasurer shall stamp on said application: "taxes on this vehicle due January 1 of current year paid by applicant, prior applicant or owner and this vehicle is eligible for registration."

Entry on application.

Upon accepting application for registration of any motor vehicle which was not subject to taxation in this

HeinOnline -- 1971 vol. I 848 1971

state on January 1st in any year, the county treasurer shall indicate such fact by proper entry on said application.

(8) The registrar of motor vehicles shall have authority to make proper entry on any certificate of title to any motor vehicle respecting payment of taxes in accord with the facts.''

Entry on certificate of title.

Approved March 4, 1971

CHAPTER NO. 215

An Act to Provide Free License Plates to Permanently and Totally Disabled Veterans of the Armed Forces of the United States Whose Disability is Service Connected.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any person who is a veteran of the armed service of the United States and permanently and totally disabled because of an injury which has been determined by the veterans administration to be service connected, and who is a citizen and resident of the state of Montana, and who is the owner of an automobile, shall be provided with free license plates upon payment of personal property tax equal to one percent (1%) of the taxable value for the automobile upon proof of permanent and total service connected disability.

Disabled veterans provided with free license plates.

Payment of tax—1% of value.

Section 2. The license issued pursuant to this act shall not be transferable.

Not transferable.

Section 3. No disabled veteran shall be entitled to free license plates for more than one automobile.

One automobile.

Section 4. Any person who violates this act or who knowingly and wrongfully attempts to secure free license plates under this act shall be guilty of a misdemeanor and punished by a fine of not less than one hundred dollars ($100) or imprisonment for not more than thirty (30) days or both.

Violation—penalties.

Approved March 4, 1971

HeinOnline -- 1971 vol. I 849 1971

CHAPTER NO. 216

An Act to Amend Sections 67-2211, 67-2212, 67-2213, 67-2214, 67-2215, 67-2216, 67-2217, 67-2218, 67-2219, 67-2220, 67-2221, 67-2222, 67-2223, 67-2224, 67-2225 and 67-2226, R.C.M. 1947, Providing for the Disposition of Unclaimed Property in the State of Montana by Transferring the Duties from the Office of the State Treasurer to the State Board of Equalization.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 67-2211, R.C.M., 1947, is amended to read as follows:

Duty to report abandoned property to state board.

"67-2211. **Report of abandoned property.** (a) Every person holding *moneys* or other property, tangible or intangible, presumed abandoned under this act shall report to the *state board of equalization* with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

Verified report—requirements.

(1) Except with respect to travelers' checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of three dollars ($3) or more presumed abandoned under this act;

(2) In case of unclaimed *moneys* of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under three dollars ($3) each may be reported in aggregate;

(4) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(5) Other information which the *state board of equalization* prescribes by rule as necessary for the administration of this act.

Prior holders.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his

HeinOnline -- 1971 vol. I 850 1971

report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 every three (3) years as of June 30 next preceding, but the reports of life insurance corporations, banking and financial organizations and co-operatives, shall be filed before May 1 of each year as of December 31 next preceding. The *state board of equalization* may request that any other reports be filed each year. The *state board of equalization* may postpone the reporting date upon written request by any person required to file a report. The *state board of equalization* shall furnish forms for this report. Dates of filing. Forms.

(e) If the holder of property presumed abandoned under this act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner. Duty of holder to communicate with owner.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer. Verification.

(g) The initial report filed under this act shall include all items of property that would have been presumed abandoned if this act had been in effect during the ten-year period preceding its effective date." Initial report.

Section 2. Section 67-2212, R.C.M., 1947, is amended to read as follows: Amending clause.

"67-2212. **Notice and publication of lists of abandoned property.** (a) Within one hundred twenty (120) days from the filing of the report required by section 67-2211, the *state board of equalization* shall cause notice to be published at least once each week for two (2) successive weeks in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this state. Within 120 days—publication of notice.

HeinOnline -- 1971 vol. I 851 1971

Title and other requirements.

(b) The published notice shall be entitled "Notice of Names of Persons Appearing to Be Owners of Abandoned Property," and shall contain:

(1) The names in alphabetical order and last known addresses, if any, or person listed in the report and entitled to notice within the county as hereinbefore specified.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the *state board of equalization.*

(3) A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within sixty-five (65) days from the date of the second published notice, the abandoned property will be placed not later than eighty-five (85) days after such publication date in the custody of the *state board of equalization* to whom all further claims must thereafter be directed.

Exceptions—items less than $25.

(c) The *state board of equalization* is not required to publish in such notice any item of less than twenty-five dollars ($25) unless *the board* deems such publication to be in the public interest.

Within 120 days mailing of notice.

(d) Within one hundred twenty (120) days from the receipt of the report required by section 67-2211, the *state board of equalization* shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of twenty-five dollars ($25) or more presumed abandoned under this act.

Requirements.

(e) The mailed notice shall contain:

(1) A statement that, according to a report filed with the *state board of equalization,* property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice the property will be

HeinOnline -- 1971 vol. I 852 1971

placed in the custody of the *state board of equalization* to whom all further claims must be directed.

(f) This section is not applicable to sums payable on travelers' checks or money orders presumed abandoned under section 67-2202." Exemptions.

Section 3. Section 67-2213, R.C.M., 1947, is amended to read as follows: Amending clause.

"67-2213. **Payment or delivery of abandoned property.** Every person who has filed a report as provided by section 67-2211 shall within twenty (20) days after the time specified in section 67-2212 for claiming the property from the holder, or in the case of sums payable on travelers' checks or money orders presumed abandoned under section 67-2202 within twenty (20) days after the filing of the report, pay or deliver to the *state board of equalization* all abandoned property specified in this report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in section 67-2212, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the *state board of equalization*, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment." Payment or delivery of property to state board. Verified explanation.

Section 4. Section 67-2214, R.C.M., 1947, is amended to read as follows: Amending clause.

"67-2214. **Relief from liability by payment or delivery.** Upon the payment or delivery of abandoned property to the *state board of equalization*, the state shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the *state board of equalization* under this act is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property. Any holder who has paid moneys to the *state board of equalization* pursuant to this act may make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the *state board of equalization* shall forthwith reimburse the holder for the payment. Relief from liability. Reimbursement.

HeinOnline -- 1971 vol. I 853 1971

Refund.

Any holder who has paid moneys to the *state board of equalization* pursuant to this act, and after exhausting his legal remedies, is compelled by authority of another jurisdiction to make a second payment to any other state, upon certified proof thereof and upon proof that the *state board of equalization* was notified in writing of the claim of such other state within thirty (30) days after such claim has been asserted, the *state board of equalization* shall refund to such holder the amount of such second payment not in excess of the amount paid to the *state board of equalization* under this act."

Amending clause.

Section 5. Section 67-2215, R.C.M., 1947, is amended to read as follows:

Owner not entitled to increments.

"67-2215. **Income accruing after payment or delivery.** When property is paid or delivered to the *state board of equalization* under this act, the owner is not entitled to receive income or other increments accruing thereafter."

Amending clause.

Section 6. Section 67-2216, R.C.M., 1947, is amended to read as follows:

Periods of limitation do not stay proceedings.

"67-2216. **Periods of limitation not a bar.** The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by this act or to pay or deliver abandoned property to the *state board of equalization.*"

Amending clause.

Section 7. Section 67-2217, R.C.M., 1947, is amended to read as follows:

Board shall sell at public auction.

"67-2217. **Sale of abandoned property.** (a) All abandoned property other than money delivered to the *state board of equalization* under this act shall within one (1) year after the delivery be sold by *the board* to the highest bidder at public sale in whatever city in the state affords in *the board's* judgment the most favorable market for the property involved. The *state board of equalization* may decline highest bid and reoffer the property for sale if *the board* considers the price bid insufficient. *The board* need not offer any property for sale if, in *the board's* opinion, the probable cost of sale exceeds the value of the property.

HeinOnline -- 1971 vol. I 854 1971

(b) Any sale held under this section shall be preceded by a single publication of notice thereof, at least three (3) weeks in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold. Publication of notice.

(c) The purchaser at any sale conducted by the *state board of equalization* pursuant to this act shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The *state board of equalization* shall execute all documents necessary to complete the transfer of title." Title in purchaser. Documents.

Section 8. Section 67-2218, R.C.M., 1947, is amended to read as follows: Amending clause.

"67-2218. **Deposit of** *moneys.* (a) All *moneys* received under this act, including the proceeds from the sale of abandoned property under section 67-2217, shall forthwith be deposited by *the state board of equalization with* the state treasurer *for credit to* the *trust and legacy fund,* public school *account* of the state, except that the state treasurer shall retain in the agency fund an amount not exceeding twenty-five thousand dollars ($25,000) from which he shall make prompt payment of claims allowed by *the board* as hereinafter provided. Before making the deposit *the state board of equalization* shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours. Deposit of moneys. Trust and legacy fund—public school account. Records prior to deposit.

(b) Before making any deposit to the credit of the public school *account,* the *state board of equalization* may deduct: (1) any costs in connection with sale of abandoned property, (2) any costs of mailing and publication in connection with any abandoned property, and (3) reasonable service charges." Deduction for costs.

Section 9. Section 67-2219, R.C.M. 1947, is amended to read as follows: Amending clause.

"67-2219. **Claim for abandoned property paid or de-**

HeinOnline -- 1971 vol. I 855 1971

Claims by owner.

livered. Any person claiming an interest in any property delivered to the state under this act may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the *state board of equalization.*''

Amending clause.

Section 10. Section 67-2220, R.C.M., 1947, is amended to read as follows:

Board shall consider claims.

"67-2220. **Determination of claims.** (a) The *state board of equalization* shall consider any claim filed under this act and may hold a hearing and receive evidence concerning it. If a hearing is held *the board* shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by *the board* and the reasons for *the board's* decision. The decision shall be a public record.

Payment.

(b) If the claim is allowed, the *state board of equalization* shall make payment forthwith. The claim shall be paid without deduction for costs of notices or sale or for service charges.''

Amending clause.

Section 11. Section 67-2221, R.C.M., 1947, is amended to read as follows:

Action in district court.

"67-2221. **Judicial action upon determinations.** Any person aggrieved by a decision of the *state board of equalization* or as to whose claim the *board* has failed to act within ninety (90) days after the filing of the claim, may commence an action in the district court of Lewis and Clark county to establish his claim. The proceeding shall

Time limitation.

be brought within ninety (90) days after the decision of the *state board of equalization* or within one hundred eighty (180) days from the filing of the claim if the *board*

Trial de novo.

fails to act. The action shall be tried de novo without a jury.''

Amending clause.

Section 12. Section 67-2222, R.C.M., 1947, is amended to read as follows:

Board may refuse delivery.

"67-2222. **Election to take payment or delivery.** The *state board of equalization,* after receiving reports of property deemed abandoned pursuant to this act, may decline to receive any property reported which *the board* deems to have a value less than the cost of giving notice and holding sale, or *the board* may, if *the board* deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates.''

HeinOnline -- 1971 vol. I 856 1971

Section 13. Section 67-2223, R.C.M., 1947, is amended to read as follows: Amending clause.

"67-2223. **Examination of records.** The *state board of equalization, or their designated agent,* may at reasonable times and upon reasonable notice examine the records of any person if *the board* has reason to believe that such person has failed to report property that should have been reported pursuant to this act." Authority to examine records.

Section 14. Section 67-2224, R.C.M., 1947, is amended to read as follows: Amending clause.

"67-2224. **Proceeding to compel delivery of abandoned property.** If any person refuses to deliver property to the *state board of equalization* as required under this act, *the board* shall bring an action in a court of appropriate jurisdiction to enforce such delivery." Action to compel delivery.

Section 15. Section 67-2225, R.C.M., 1947, is amended to read as follows: Amending clause.

"67-2225. **Penalties.** (a) Any person who willfully fails to render any report or perform other duties required under this act shall be punished by a fine of fifty dollars ($50) for each day such report is withheld, but not more than one thousand dollars ($1,000). Penalties.

(b) Any person who willfully refuses to pay or deliver abandoned property to the *state board of equalization* as required under this act shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisonment for not more than six (6) months, or both, in the discretion of the court."

Section 16. Section 67-2226, R.C.M., 1947, is amended to read as follows: Amending clause.

"67-2226. **Rules and regulations.** The *state board of equalization* is hereby authorized to make necessary rules and regulations to carry out the provisions of this act and shall be represented in the enforcement of the provisions of this act by the special assistant attorney general in charge of escheated estates." Rules and regulations.

Enforcement—special assistant attorney general.

Approved March 4, 1971.

HeinOnline -- 1971 vol. I 857 1971

CHAPTER NO. 217.

An Act to Amend Section 91-403, R.C.M., 1947, Relating to Succession To and Distribution of Estates.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-403, R.C.M., 1947, is amended to read as follows:

Disposition of estate of intestate.

"91-403. **Succession to and distribution of estates.** When any person having title to any estate not limited by marriage contract dies without disposing of the estate by will, it is succeeded to and must be distributed, unless otherwise expressly provided by the laws of Montana, subject to the payment of his debts, in the following manner:

Surviving husband or wife and children.

1. If the decedent leaves a surviving husband or wife, only one (1) child, or the lawful issue of one (1) child, in equal shares to the surviving husband, or wife and child, or issue of such child. If the decedent leaves a surviving husband or wife, and more than one (1) child living, or one (1) child living, and the lawful issue of one (1) or more deceased children, one third (1/3) to the surviving husband or wife, and the remainder in equal shares to his children, and to the lawful issue of any deceased child, by right of representation; but if there be no child of the decedent living at his death, the remainder goes to all his lineal descendants; and if all the descendants are in the same degree of kindred to the decedent, they share equally, otherwise they take according to the right of representation. If the decedent leaves no surviving husband or wife, but leaves issue, the whole estate goes to such issue; and if such issue consists of more than one (1) child living, or one (1) child living, and the lawful issue of one (1) or more deceased children, then the estate goes in equal shares to the children living, or to the child living, and the issue of the deceased child or children by right of representation.

Lineal descendants.

Issue.

Surviving husband or wife.

2. If the decedent leaves no issue, the whole of the estate shall go to the surviving husband or wife. If the decedent leaves no issue, nor husband or wife, the estate must go to the father and mother in equal shares, or if either be dead then to the other.

Father and mother.

3. If there be neither issue, husband, wife, father, nor

HeinOnline -- 1971 vol. I 858 1971

mother, then in equal shares to the brothers and sisters of the decedent, and to the children *or grandchildren* of any deceased brother or sister, by right of representation. Brothers and sisters, their children or grandchildren.

4. If the decedent leaves neither issue, husband, wife, father, mother, brother, nor sister, the estate goes to the next of kin, in equal degree, excepting that where there are two (2) or more collateral kindred, in equal degree, but claiming through different ancestors, those who claimed through the nearest ancestors must be preferred to those claiming through an ancestor more remote. Next of kin.

5. If the decedent leaves several children, or one (1) child, and the issue of one (1) or more children, and any such surviving child dies under age, and not having been married, all the estate that came to the deceased child by inheritance from such decedent descends in equal shares to the other children of the same parent, and to the issue of any such other children who are dead, by right of representation. Share of deceased minor, unmarried child.

6. If, at the death of such child, who dies under age, not having been married, all the other children of his parents are also dead, and any of them have left issue, the estate that came to such child by inheritance from his parent descends to the issue of all other children of the same parent; and if all the issue are in the same degree of kindred to the child, they share the estate equally, otherwise they take according to the right of representation. Issue of children.

7. If the decedent leaves no husband, wife, or kindred, the estate escheats to the state." Escheat to state.

Approved March 4, 1971.

CHAPTER NO. 218.

An Act to Provide for Recording of Abstracts of Instruments and Providing for Constructive Notice Thereof; Amending Section 16-2902, 73-107, 73-114, 73-115, 73-116, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-2902, R.C.M., 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1971 vol. I 859 1971

County clerk must record instruments on payment of fees.

"16-2902. **What to be recorded.** He must, upon payment of his fees for the same, record, or photograph, or correctly copy, separately, in large and well-bound, or to be bound, separate books, either in a fair hand or by printing or by typewriting, or by photographic process, or by the use of prepared blank forms:

1. Deeds, grants, transfers, contracts to sell or convey real estate and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate, and leases which have been acknowledged or proved, *and abstracts of such instruments which have b e e n acknowledged or proved;*

2. Certificates of births and deaths;

3. Wills devising real estate admitted to probate;

4. Official bonds;

5. Transcripts of judgments which by law are made liens upon real estate;

6. Instruments describing or relating to the separate property of married women, and sole trader judgments;

7. All orders and decrees made by the district court in probate matters affecting real estate which are required to be recorded;

8. Notice of pre-emption claims;

9. Notice and declaration of water rights;

10. Assignments for the benefit of creditors;

11. Affidavits of annual work done on mining claims;

12. Notices of mining locations and declaratory statement;

13. Estrays and lost property;

14. A book containing appraisement of state lands;

15. Such other writings as are required or permitted by law to be recorded; provided, nothing herein shall be construed as preventing the recording or photographing or copying of such instruments, separately, upon a single or loose page or pages of a book, if such page or pages shall immediately become a part of such book or volume, which, when completed, shall be firmly bound and the pages thereof securely locked or sealed into the volume.

HeinOnline -- 1971 vol. I 860 1971

Whenever the laws of the state of Montana require or permit any instrument to be recorded, such recording may be made in the manner or by any of the processes hereinbefore prescribed."

Instruments defined to include abstracts.

Section 2. **Instruments to include abstracts.** For the purposes of title 73, chapter 1 and title 39, chapter 1 the word instrument shall include an abstract of an instrument which contains:

(a) The names and addresses of the parties thereto.

(b) A description of the real property affected.

(c) A statement that this is an abstract of another document.

(d) A short statement of the effect of the document abstracted.

(e) The name and address of the person who will provide a full and complete copy of the document abstracted, without cost, upon request of any person.

(f) And shall be executed and acknowledged or proved by all parties executing the abstracted document.

Effect of recorded abstract.

Section 3. An abstract of a conveyance or encumbrance of real property, which abstract is acknowledged or proved, and certified and recorded as prescribed by law, shall have the same effect for all purposes of title 73, chapter 2 as if the conveyance or encumbrance of real property had been acknowledged or proved, and certified and recorded as prescribed by law.

Amending clause.

Section 4. Section 73-107, R.C.M., 1947, is amended to read as follows:

Transfer in trust and liens, or abstracts thereof.

"73-107. **Transfers in trust, etc.** Transfers of property in trust for the benefit of creditors, and transfers or liens on property by way of mortgage *or abstract of such document* are required to be recorded in the cases specified in the chapters on the special relation of debtor and creditor, and the chapter on mortgages, respectively."

Amending clause.

Section 5. Section 73-114, R.C.M., 1947, is amended to read as follows:

Duty to release forfeited oil, gas and mineral leases.

"73-114. **Oil, gas and mineral leases, release of record of.** When any oil, gas, or other mineral lease heretofore or hereafter executed shall become forfeited, it shall be

HeinOnline -- 1971 vol. I 861 1971

the duty of the lessee, his successor or assigns, within sixty days from the date this act shall take effect, if the forfeiture occurred prior thereto, and within sixty days from the date of the forfeiture of any and all leases, to have such lease *or abstract of such lease* released from record in the county where the leased land is situated without cost to the owner thereof."

Amending clause.

Section 6. Section 73-115, R.C.M., 1947, is amended to read as follows:

Action to compel release.

"73-115. **Action to compel release—damages—attorney's fees—release without suit.** Should the owner of such lease neglect or refuse to execute a release as provided by this act, then the owner of the leased premises may sue in any court of competent jurisdiction to obtain such release, and he may also recover in such action of the lessee, his successor or assigns, the sum of one hundred dollars ($100.00) as damages, and all costs, together with a reasonable attorney's fee for preparing and prosecuting the suit, and he may also recover any additional damages that the evidence in the case will warrant. In all such actions writs of attachment may issue as in other cases. If, in such action, the plaintiff fails to establish the forfeiture of the lease, an attorney's fee must be allowed to the holder of the lease. Issues in regard to such fees shall be determined in the same manner as other issues in such actions.

Damages, costs, and attorneys fees.

Additional remedy.

When, by its terms, any such oil and/or gas lease has expired and is subject to forfeiture for nonperformance and more than three (3) years has elapsed since said expiration, the owner of the leased premises may, in addition to all other remedies, serve a written notice on said lessee or on the assignee thereof, which notice shall state the name of the lessor, the lessee, and the assignee thereof if assigned; the date of the lease, the date of the expiration thereof; description of the lands leased; the place, book and page where recorded; and shall state that unless said lease *or abstract of such lease* is released of record, or the lessee or the assignee thereof shall, within sixty (60) days from the date of service thereof, file an affidavit in the county clerk's office in the county wherein such lease *or abstract of such lease* is recorded and deliver a copy thereof to the owner of the leased lands stating that said lease is in effect, otherwise, said lease shall be terminated and of

Owner may serve notice on lessee.

Affidavit filed with clerk.

Termination of lease.

HeinOnline -- 1971 vol. I 862 1971

no effect and shall cease to be a lien upon the lands described therein.

If the lessee of the assignee thereof resides in the county where said lease *or abstract of such lease* is recorded, the notice shall be personally served on said person or persons. If said lessee or the assignee thereof does not reside in said county, but his, her or its address appears on the records in that county clerk's office, or is otherwise known, such notice shall be mailed by registered mail to such person, or persons, at such address, and in addition thereto, such notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county in which said lands are situated, and said notice shall likewise be published in the manner as above provided if the address of the lessee or assignee is unknown. The date of service of said notice, if served personally; the date of mailing, if served by mail; and the first date of publication of said notice, if published, must be at least sixty (60) days before the date of termination referred to in said notice. Upon the expiration of the time mentioned in said notice, if the affidavit of the lessee or assignee has not been filed as herein provided, the owner of the leased lands shall file an affidavit or service thereof in the county clerk's office of said county and the affidavit shall be kept as a permanent file in his office, and such proof of notice when so filed shall be prima-facie evidence of the sufficiency of the notice, and from and after the filing thereof said lease shall be terminated and the lands released from the lien thereof.''

Personal service.

Registered mail.

Publication.

Affidavit of service filed.

Prima facie evidence.

Termination.

Section 7. Section 73-116, R.C.M., 1947, is amended to read as follows:

Amending clause.

"73-116. **Demand for release—when and upon whom to be made.** At least twenty days before bringing the action provided for in this act, the owner of the leased land, either by himself or by his agent or attorney, shall demand of the holder of the lease (if such demand by ordinary diligence can be made in this state) that said lease *or abstract of such lease* be released of record. Such demand must be written. When written, a letterpress or carbon or written copy thereof, when shown to be such, may be used as evidence in any court with the same force and effect as the original.''

Demand for release of record.

Evidence.

Approved March 4, 1971.

HeinOnline -- 1971 vol. I 863 1971

CHAPTER NO. 219

An Act Creating the Division of Criminal Investigation Within the Office of the Attorney General and Defining the Duties of Said Division; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-414, R.C.M., 1947, is amended to read as follows:

Division of criminal investigation created.

"82-414. *Division of Criminal Investigation* **created—appointment and qualifications.** (1) There is hereby created a permanent *division* of criminal *investigation* within the office of the state attorney general.

Appointment by attorney general.

(2) The attorney general shall appoint *such agents* and other necessary assisting personnel and fix their compensation.

Qualifications of agents.

(3) *Each agent* shall be a person qualified by experience, training and high professional competence in criminal investigation. Qualifications shall be equal to those of similarly assigned federal bureau of investigation personnel."

Amending clause.

Section 2. Section 82-415, R.C.M., 1947, is amended to read as follows:

"82-415. **Definition of term.** As used in this act:

"Agent" defined.

"*Agent*" means *a* person appointed to the *division* of criminal *investigation* within the attorney general's office."

Amending clause.

Section 3. Section 82-416, R.C.M., 1947, is amended to read as follows:

Powers and duties of agents.

"82-416. **Powers and duties of** *agents. An agent* shall have the power and duty to:

(1) Assist city, county, state and federal law enforcement agencies at their request by providing expert and immediate aid in investigation and solution of felonies committed in the state;

(2) Assist various law enforcement schools held in the state for law officers when requested;

(3) Cooperate with the bureau of criminal identification and investigation;

HeinOnline -- 1971 vol. I 864 1971

(4) *Act as a peace officer as defined in the laws of Montana when engaged in assisting or acting under the direction of city, county, state and federal law agencies as provided in this section.''*

Section 4. Section 82-417, R.C.M., 1947, is amended to read as follows: Amending clause.

"82-417. **Access to files of** *division of criminal investigation.* A person with a known criminal record shall not be permitted access to the files of the *division of criminal investigation,* nor shall anyone else, without the order of a district judge or a supreme court justice.'' Limited access to files.

Section 5. Section 82-418, R.C.M., 1947, is amended to read as follows: Amending clause.

"82-418. *Division of criminal investigation* **covered by retirement program.** *All agents* and assisting personnel shall be covered by the public employees' retirement system.'' Public employees' retirement system.

Section 6. Section 82-419, R.C.M., 1947, is amended to read as follows: Amending clause.

"82-419. **State agencies to cooperate with** *division of criminal investigation.* All state departments and agencies shall cooperate with *such agents and assisting personnel* in providing transportation, educational and laboratory facilities for *their* use when so requested.'' Duties of state agencies to cooperate.

Section 7. Section 82-420, R.C.M., 1947, is amended to read as follows: Amending clause.

"82-420. **Location of** *division of criminal investigation.* The *location of the division of criminal investigation and its personnel* shall be *at the discretion of the state attorney general.''* Location by attorney general.

Section 8. This act is effective on its passage and approval. Effective immediately.

Approved March 4, 1971.

CHAPTER NO. 220.

An Act Amending Section 5, Chapter 287, Laws of 1967, Compiled as Section 32-4705, R.C.M., 1947, Relating to the Definition of Unzoned Areas; by Amending Section

HeinOnline -- 1971 vol. I 865 1971

12, Chapter 287, Laws of 1967, Compiled as Section 32-4712, R.C.M., 1947, by Providing That the Montana Attorney General May Seek an Early Court Determination of Whether the Act Is In Compliance With the Federal Highway Beautification Act of 1965; By Amending Section 13, Chapter 287, Laws of 1967, Compiled as Section 32-4713, R.C.M., 1947, by Providing That the State Highway Commission May Promulgate Such Regulations as Are Minimally Necessary to Avoid the Loss of Federal-Aid Highway Funds to This State When Advised By the Montana Attorney General That Further Court Proceedings Are Not Warranted; By Amending Section 14, Chapter 287, Laws of 1967, Compiled as Section 32-4714, R.C.M., 1947, By Providing That No Sign Shall Be Removed Until Federal Funds Are Available as Provided in the Federal Highway Beautification Act of 1965, and By Eliminating the Requirement That Said Chapter 287, Laws of 1967, Be Reenacted Every Two (2) Years; and By Providing That This Act Shall Be Effective Upon Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 5, chapter 287, Laws of 1967, compiled as section 32-4705, R.C.M., 1947, is amended to read as follows:

"32-4705. **Unzoned areas.** Unzoned commercial and industrial areas are defined for the purposes of this act as follows:

"Unzoned commercial or industrial area" defined.

(a) Definition. An "unzoned commercial or industrial area," consistent with and subject to the principles and standards set forth in subsection (f) of section 4 [32-4704], means any of the following unzoned areas adjacent to an interstate or primary highway:

(1) Those areas not zoned by state or local law, regulation or ordinance which are occupied by one (1) or more industrial or commercial activities other than outdoor advertising signs on the lands along the highway for a distance of six hundred (600) feet immediately adjacent to the activities, and those lands directly opposite on the other side of the highway to the extent of the same dimensions; provided, those lands on the opposite side of the highway are not deemed scenic or having aesthetic value."

HeinOnline -- 1971 vol. I 866 1971

Amending clause.

Section 2. Section 12, chapter 287, Laws of 1967, compiled as section 32-4712, R.C.M., 1947, is amended to read as follows:

Authority of state highway commission to seek agreements with federal government.

"32-4712. **Agreements with the United States.** The state highway commission is hereby authorized and directed in behalf of this state to seek agreements with the secretary of commerce or the secretary of transportation as to the matters specified for agreement in subsection (d) of section 131 of title 23, United States Code. Said commission's authority so to act is hereby limited, consistent with constitutional principles, to seeking and if possible making agreements embodying the provisions and only the provisions of sections 5 and 6 [32-4705 and 32-4706], on the basis that they are in conformity with said section 131.

Limitations.

Attorney general shall initiate proceedings.

If such agreement or agreements cannot be achieved, the attorney general of this state shall promptly initiate proceedings under the provisions of said section 131 with respect to hearings, stay-of-penalties, and judicial review in order to resolve the disagreement by judicial determination. He shall also initiate such proceedings in the event of a determination to withhold any funds from this state for any alleged failure of this state to comply with any provision of said section 131, in order to obtain a judicial determination of whether this act provides effective control of outdoor advertising in conformity with said section 131.

Attorney general directed to seek court determination

Furthermore, prior to the occurrence of the contingencies above-mentioned in this section, the attorney general of Montana is directed, by declaratory judgment action or otherwise, to seek a court determination as speedily as possible as to whether this act is in compliance with the Federal Highway Beautification Act of 1965."

Amending clause.

Section 3. Section 13, chapter 287, Laws of 1967, compiled as section 32-4713, R.C.M., 1947, is amended to read as follows:

Intent of act to insure federal funds.

"32-4713. **Guarantee against loss of funds.** It is the overriding intent of this act, while asserting the rightful independence of this state in regard to the regulation of land usage within its borders, to ensure in all events against the withholding of any federal-aid highway funds from this state under the Federal Highway Beautification Act of 1965. Accordingly, in the event that a United States

HeinOnline -- 1971 vol. I 867 1971

district court for this state or, in case of further appeal or review, the United States court of appeals or supreme court should hold any part of this act, or any action taken hereunder, to be in noncompliance with said federal act, the state highway commission shall, *when advised by the attorney general of Montana that further court proceedings are not warranted,* promulgate such regulations as are minimally necessary to avoid the loss of any such funds, which regulations shall govern to the extent of any inconsistency between them and this act and shall be retroactively effective from January 1, 1968, if necessary to achieve the objective of this section, and until modified or superseded by further action by the legislature. Such regulations may suspend or supersede any provisions of this act or any action taken hereunder, including any zoning action, but only to the extent necessary to achieve the objective of this section. In so acting the state highway commission shall be guided by and conform to the judgment and instructions of the highest court to rule on this act's compliance or not, and, in the case of the two (2) matters specified for agreement with the secretary of commerce or transportation in subsection (d) of section 131 of said title 23, by the position of such secretary to the extent that it may not have been set aside, modified or disapproved by such court."

Duty of state highway commission.

Regulations of compliance to avoid loss of funds.

Amending clause.

Section 4. Section 14, chapter 287, Laws of 1967, compiled as section 32-4714, R.C.M., 1947, is amended to read as follows:

No signs to be removed.

"32-4714. **Congressional action or nonaction.** *No sign shall be removed until federal funds are available as provided in section 131 (n), title 23, United States Code.* In any event, if at any time in the future congress should amend section 131 of title 23, United States Code, or whatever law might then provide for federally required control of signs by the several states, in such manner as to no longer require control of signs in areas adjacent to the primary system, or any part or parts thereof, this act shall automatically be deemed amended as of the effective date of such congressional action in such manner that it will thenceforth in no way whatsoever control, restrict, regulate, or in any way affect the erection or maintenance of signs in areas adjacent to the primary system, or to such part or parts thereof; provided, however, that nothing herein shall diminish the rights of any sign owner to

Automatic amendment.

Right to compensation.

HeinOnline -- 1971 vol. I 868 1971

compensation under section 9 [32-4709], for signs which may theretofore have been removed from areas adjacent to the primary system."

Section 5. This act is effective on its passage and approval. Effective immediately.

Approved March 4, 1971.

CHAPTER NO. 221.

An Act Providing for the Licensing and Regulation of Outfitting and Guiding of Hunting and Fishing Parties in the State of Montana; Providing for the Regulation of Nonresident Hunters; the Protection of Private Property; the Protection of Environmental Resources; and to Repeal Sections 26-901, 26-902 and 26-303.2, R.C.M., 1947, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act, unless the context clearly indicates otherwise: (1) "Outfitter" means that designation or term as defined in section 26-904, R.C.M., 1947. Definitions. "Outfitter."

(2) "Professional guide" means a person who is an employee of an outfitter and who furnishes only personal guiding services in assisting a person or persons, to hunt or take protected game animals or fish and who does not furnish any facilities, transportation or equipment. "Professional guide."

(3) "Resident guide" means any resident who guides resident or nonresident friends for the purpose of hunting game animals without compensation. "Resident guide."

(4) "Advisory council" means the Montana outfitter's council. "Advisory council."

(5) "Resident" means any person who qualifies for a resident Montana hunting or fishing license under the terms and provisions of section 26-202.3, R.C.M., 1947. "Resident."

(6) "Nonresident" means any person other than a resident as herein defined. "Nonresident."

(7) "License year" means that period commencing May 1 of each year and ending April 30 of the next year. "License year."

HeinOnline -- 1971 vol. I 869 1971

"Supervisor of outfitting."

(8) "Supervisor of outfitting" means the person employed and designated by the Montana fish and game commission and director to primarily administer outfitting and guiding laws and regulations under the laws of Montana.

Unlawful for nonresident to hunt in national forests, wilderness areas, game refuges unless accompanied by licensed guide.

Section 2. (1) It shall be unlawful for any nonresident to hunt game animals on any land within any national forest, wilderness area, national game refuge, or state game range within the state of Montana unless accompanied by a licensed outfitter, professional guide or resident guide and the nonresident hunting license must bear the signature and license number of the outfitter or resident guide who accompanies him except as noted below.

Landowner may guide nonresident hunter.

(2) A landowner or agent may guide nonresident or resident hunters on land owned by, or land leased to him without a guide license; or he may authorize nonresident or resident hunters to hunt without a guide on land owned by, or land leased to, such landowner, lessee or agent. The nonresident hunter's hunting license must bear the signature of the resident landowner, lessee or agent on whose fenced property he is hunting as evidence that permission has been obtained.

Waiver.

(3) The Montana fish and game commission shall have authority to waive guide requirements for holders of B-2, B-5 and B-6 licenses in special deer and antelope areas during the period B-5 and B-6 license holders may hunt.

Exception.

Guide requirements may not be waived in areas open to a general hunting season on any game animal other than deer and antelope.

Appointment of supervisor of outfitting.

Section: 3. (1) The state fish and game director, by and with the consent and approval of the state fish and game commission, shall designate and appoint a state fish and game warden or ex officio warden with no conflict of interest to act as supervisor of outfitting who shall have the powers and duties, in addition to those prescribed for state fish and game wardens, in this act provided.

Powers and duties.

Enforcement.

Section 4. The supervisor of outfitting shall have the following powers and duties: (1) To carry out and cause enforcement of all provisions of this act.

Information pamphlet on licensed outfitters.

(2) To prepare and publish an information pamphlet which contains the names and addresses of all licensed outfitters. Such pamphlet shall be available for free distribu-

HeinOnline -- 1971 vol. I 870 1971

tion as early as possible during each calendar year, but not later than the second Friday in March of each year. The pamphlet shall contain the names and addresses of only those outfitters who have a valid license for the current year. The costs and expenses of the publication of said pamphlet shall be paid from the state fish and game fund.

Cooperation with federal agencies.

(3) To cooperate with the federal government through its appropriate agencies or instrumentalities in matters of mutual concern regarding the business of outfitting and guiding in Montana.

Meetings.

(4) To establish a minimum of two (2) meetings annually with the advisory council.

Consultation with advisor council.

(5) To consult with the advisory council to develop policy concerning the administration of outfitting and to transmit the council recommendations to the fish and game commission.

Advisory council established.

Section 5. (1) There shall be established an advisory council which shall be composed of one (1) licensed outfitter from each of the seven (7) fish and game administrative districts. Each council member shall be selected by the licensed outfitters residing in that district by election at an annual meeting of such outfitters to be held in the district headquarters. A majority vote of all such outfitters in attendance at such meeting shall determine the council member from that district. Such meeting shall be held at 1:00 p.m. on the second Friday of March. Each member shall be elected for a three (3) year term and shall take office the day elected. At such election, an alternate council member shall also be elected to serve in the event the first elected delegate is unable to act. The first members elected from districts one (1) and seven (7) shall each hold office for a term of one (1) year; the first members elected from districts two (2) and six (6) shall each hold office for a term of two (2) years; members elected from districts three (3), four (4) and five (5) shall each hold office for a term of three (3) years. The said advisory council shall be designated as the "Montana outfitter's council."

Election.

Annual meeting.

Terms of office.

"Montana outfitter's council."

Duty to make recommendations.

(2) The advisory council shall have the authority and duty to make recommendations to the state fish and game commission and the fish and game director as to the following:

HeinOnline -- 1971 vol. I 871 1971

Standards.

(a) Outfitter standards.

Rules.

(b) Rules of procedures and regulations to carry into effect the provisions of this act including but not limited to regulations prescribing all requisite qualifications for license, including training, experience, knowledge of rules and regulations of governmental bodies pertaining to outfitting and condition and type of gear and equipment.

Hearings on licenses.

(c) Hearings and proceedings to suspend or revoke licenses of outfitters and/or guides and to recommend suspension or revocation of licenses for due cause.

Safety rules.

(d) Any and all reasonable rules and regulations which are deemed necessary, and which are not in conflict with this act, for the express purpose of safeguarding the health, safety and welfare of those persons utilizing the services of outfitters, and for the protection of landowners and the general public.

Authority of fish and game commission—rules and regulations.

Section 6. (1) The fish and game commission shall have the authority to adopt, promulgate and enforce rules and regulations recommended by the advisory council as provided in section 5 and all other rules and regulations it may deem proper for the proper administration and enforcement of the provisions of this act and the regulation of outfitting and guiding to provide for the services to the public.

License required.

Section 7. (1) No person shall act as an outfitter, professional guide or resident guide, or advertise as an outfitter, without first securing a license in accordance with the provisions of this act.

Records required.

(2) Whenever an outfitter is engaged by any person, or a resident guide takes out nonresident friends, said outfitter or resident guide shall keep and submit records as required by the fish and game commission.

Outfitters shall not take game.

(3) Outfitters and their employees shall not shoot, kill, or take big game animals for or in competition with those employing them while acting under employment as an outfitter.

Government permits.

(4) Outfitters and resident guides utilizing lands under the control of the United States government shall obtain the proper permits required by the government office responsible for the area in which the outfitter or resident guide intends to operate, and shall comply to en-

HeinOnline -- 1971 vol. I 872 1971

vironmental protection standards established for these lands.

(5) An outfitter shall not willfully and substantially misrepresent his facilities, prices, equipment, services or hunting. Misrepresentation prohibited.

(6) Outfitters and their employees shall take every reasonable measure to provide their advertised services to their clients. Advertised services.

Section 8. (1) Each applicant for an outfitter's or professional guide's license shall make application for license upon a form to be prescribed and furnished by the fish and game commission which shall include: Application for license. Requirements.

(a) The applicant's full name, address and telephone number.

(b) The address of his principal place of business in the state of Montana.

(c) The amount and kind of property and equipment owned and used in the outfitting business of the applicant, if an outfitter's license application.

(d) The experience of the applicant, including years of experience as an outfitter or guide, knowledge of areas in which he has operated and intends to operate, and ability to cope with weather conditions and terrain.

(e) A signed statement of the licensed outfitter by whom the professional guide is to be employed, that the said guide is in fact, to be employed by such outfitter and stating that said outfitter recommends the applicant for his qualifications. Statement of employment.

(f) A statement by a Montana fish and game warden to the fish and game director that the equipment listed on the application has been inspected by said warden and that the same is in fact, owned or used by the applicant and is in good operating condition and is sufficient and satisfactory for the services advertised or contemplated to be performed by such applicant. Statement of inspection of equipment by game warden.

(g) A statement of the maximum number of guests to be taken at any one (1) time. Number of guests.

(h) Each new applicant who intends to outfit on a national forest must have the written approval of the Approval of forest ranger.

HeinOnline -- 1971 vol. I 873 1971

rangers in whose district he will establish hunting camps, and such written approval shall accompany the application.

Individual name.

(i) Each application for a partnership, company or corporation must be in the name of one individual who qualifies under the provisions of this act.

Qualifications for outfitters license.

(2) Each applicant for an outfitter's license shall meet the following requirements:

(a) Be a competent person of good moral character.

(b) Be a citizen of the United States and a resident of Montana for a full two (2) years, unless the residency requirement is waived by the fish and game commission.

(c) Be at least twenty-one (21) years of age.

(d) Be in such physical condition as to be able to perform his assigned or obligated duties.

Ownership—equipment and facilities.

(e) To own or hold under written lease or to represent a company, corporation or partnership who owns or holds under written lease the equipment and facilities as is necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and his clients.

Subject to inspection.

All equipment and facilities shall be subject to inspection at all reasonable times and places by the fish and game commission or its designated agent.

Standard examination.

(f) Pass a standard examination administered by the fish and game director, or an agent designated by him, which said examination shall require general and sufficient knowledge displaying and indicating ability to perform the services contemplated with efficiency and with safety to the health and welfare of persons employing such services. The said examination shall test the applicant's knowledge of subjects which shall apply to the type of license applied for in the following subjects:

Subjects.

(i) Fish and game laws and regulations.

(ii) Practical woodsmanship.

(iii) General knowledge of big game.

(iv) Field preparation of trophies.

(v) Care of game meat.

(vi) Use of outfitter's gear as shown on the application.

HeinOnline -- 1971 vol. I 874 1971

(vii) Knowledge of area and terrain.

(viii) Knowledge of firearms.

(ix) Federal and state regulations as applicable to outfitting.

(x) Practical first aid.

(3) Each applicant for a professional guide's license shall meet the following requirements: Qualifications for professional guide's license.

(a) Be a competent person of good moral character.

(b) Be a citizen of the United States and a resident of Montana as defined in this act.

(c) Be eighteen (18) years of age or older and in such physical condition as to be able to perform his assigned duties.

(d) Be endorsed and recommended by an outfitter with a valid license.

(4) A resident guide shall have been issued a valid resident wildlife conservation license. Conservation license required.

(5) Residence requirements for procuring an outfitter's license are hereby waived as to persons who are citizens of a common boundary state and of a common county thereof to the same extent the home state of the applicant waives such requirements for the residents of Montana except for fee. Waiver of residence requirements—reciprocity.

For the purpose of obtaining a guide's license only, nonresident professional guides employed by resident outfitters shall be considered resident professional guides.

(6) Applications shall be made to and filed with the fish and game director and accompanied by a license fee as herein stipulated, which will be refunded if and when the application is denied. The fee is to be used in investigation of the applicant, in enforcement of this act, and for administrative costs. Application filed with fish and game director.

Fees.

Resident outfitter's license fee .....$ 50.00

Resident professional guide's fee .....$ 15.00

Resident guide's license is a valid Montana wildlife conservation license.

HeinOnline -- 1971 vol. I 875 1971

Nonresident outfitter's license fee $150.00

Nonresident professional guide's fee $100.00

Reciprocal fees.

Provided, however, that if the nonresident resides in a state requiring residents of the state of Montana to pay in excess of said amounts for similar license, the fee for such nonresident outfitters or guides shall be the same amount as such higher fee charged in the state where such nonresident resides.

Director may investigate.

(7) The fish and game director in his discretion may cause to be made such additional investigation and inquiry, relative to the applicant for outfitter's license and an applicant's qualifications as he shall deem advisable.

Decision within 30 days.

Final decision as to issuance of renewal applications shall be made not later than thirty (30) days from the date of receipt of the completed application for renewal of license,

Within 90 days.

and upon a new application, not later than ninety (90) days from the date of receipt of the completed application for license. A licensee in good standing shall be entitled to a new license for the ensuing license year upon complying with the provisions of section 8, but is exempt from having to retake the written examination.

Licenses issued.

Section 9. (1) After receipt of the application and when all the conditions and requirements of this act have been satisfied, the fish and game director shall issue either of the following licenses depending upon his determination of the applicant's ability and the service that the applicant can perform with the equipment listed on his application.

General.

(a) A general license authorizing him to perform all the functions of an outfitter as that term is defined in section 26-904, R.C.M., 1947.

Special.

(b) A special license authorizing him to perform only the function of outfitting listed on the license. The license shall be in the form prescribed, and shall be valid for the licensing year in which issued. If the application is denied, the fish and game director shall notify the applicant, in writing, of the reasons for the denial, and if the reasons are corrected, a license shall be issued upon reapplication thereof.

Guide may work pending decision.

(2) For the purpose of this act, a person may serve as a professional guide under his employer's license after submitting his application with the proper license fee

HeinOnline -- 1971 vol. I 876 1971

until license is issued or for ten (10) days after notification of rejection of license.

(3) To be valid, a professional guide license must bear the signature and outfitter's license number of an endorsing outfitter and is valid only while the holder of such license is employed by an endorsing outfitter. Validity.

Section 10. All fees collected under the provisions of this act shall be deposited as provided in section 26-121, R.C.M., 1947. Deposit of fees.

Section 11. Every license may be suspended or revoked by the fish and game commission upon any of the following grounds: Suspension or revocation for causes enumerated.

(1) Fraud or deception in procuring a license.

(2) Fraudulent, untruthful or misleading advertising.

(3) Conviction of a felony, until civil rights are restored.

(4) Repeated convictions of violations of the fish and game laws of the state of Montana.

(5) A substantial breach of any written contract with any person utilizing his services as pertains to this act.

(6) The willful and repeated employment of an unlicensed guide by an outfitter.

(7) For failure to comply with the provisions of this act.

(8) Gross negligence or misconduct while acting as an outfitter or guide.

Section 12. Proceedings for the revocation or suspension of a license issued hereunder may be taken upon charge or recommendation of any person. All such charges or recommendations must be made in writing, must state the facts upon which such charge or recommendation is based and must be signed and sworn to by the person making the charge or recommendation. Any such charge or recommendation shall be filed with the fish and game director. Thereupon, the fish and game director shall initiate a preliminary investigation of all facts in connection with the charge. A copy of all information shall be transmitted to the advisory council. The advisory council shall within sixty (60) days recommend the action to be Requirements of charge to revoke or suspend. Filing with director —investigation. Advisory council recommendation within 60 days.

HeinOnline -- 1971 vol. I 877 1971

Dismissal.

taken. If the accusation be deemed to be unfounded or trivial, the fish and game director shall dismiss the same and report his action to the fish and game commission and will advise the accused and the complaining party of the action. Should the fish and game director determine the charge or recommendation to have good cause and to be sufficiently founded, he shall recommend to the fish and game commission that the same be approved and the revocation or suspension be effected. The fish and game director thereupon shall cause a copy of the charge, recommendation of the council, and a record of the investigation to be served upon the licensee involved, not less than twenty (20) days prior to the day set for hearing thereon which said hearing shall be before the fish and game commission at a time and place set by such commission. At the hearing the licensee involved may be represented by counsel. After full, fair and impartial hearing, the fish and game commission may suspend the accused's license for a period not to exceed three (3) years or may order the license revoked or may dismiss the charge or recommendation based upon the facts shown at the hearing. A revoked or suspended license may be reissued or reinstated at the discretion of the commission.

Service on licensee 20 days prior to hearing.

Conduct of hearing.

Appeal to district court within 60 days.

Section 13. Any person who feels aggrieved by any action of the fish and game commission in denying the issuance of a license, or the suspension or revocation of his license as an outfitter or guide, may appeal to the district court of the county of his residence, within sixty (60) days after the entry of the order by filing with the clerk of said court a notice of appeal briefly setting forth the action complained of and appealed from. Summons and copy of the notice of appeal shall be served on the commission and all proceedings shall conform to the code of civil procedure of the state of Montana. Upon such appeal, the action shall be by trial de novo and, upon demand in writing, either party shall be entitled to trial by jury. The court may sustain or reverse the action of the commission or take such other action as the court may deem just and proper.

Filing.

Service of summons.

Trial de novo.

Demand for jury trial.

Enforcement.

Section 14. The supervisor of outfitting, state fish and game wardens and all peace officers of the state of Montana shall have the authority to enforce the provisions of this act.

Penalty.

Section 15. In addition to penalties herein provided,

HeinOnline -- 1971 vol. I 878 1971

any person violating provisions of this act shall be punished as provided in section 26-324, R.C.M., 1947.

Section 16. Sections 26-901, 26-902 and 26-303.2, R.C.M., 1947, are repealed. Repealing clause.

Section 17. The provisions of this act shall be severable, and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this act shall continue in full force and effect. Severability clause.

Section 18. This act shall be effective May 1, 1972. Effective May 1, 1972.

Approved March 5, 1971

CHAPTER NO. 222

An act Relating to the Long-Range Building Program; Increasing the Maximum Amount of Bonds Which May Be Issued for the Program and Eliminating the Maximum Interest Rate Thereon; Clarifying the Definition of the Special Tobacco Products Tax Pledged and Appropriated to the Sinking Fund Account for the Payment of Such Bonds; Levying and Providing for the Collection of an Additional Excise Tax Upon Cigarettes Sold or Possessed in Montana, and Appropriating Additional Collections of Cigarette Excise Taxes to the Long-Range Building Program Account in the Sinking Fund and in the Bond and Insurance Clearance Fund; Amending Sections 79-2202, 79-2203, 79-2205, 84-5606 and 84-5606.30, R.C.M. 1947, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 79-2202, R.C.M. 1947, is amended to read as follows: Amending clause.

"79-2202. **Long-range building program bonds.** (1) When authorized by the legislative assembly, and within the limits of such authorization and the further limitations in this section, the board may issue and sell bonds of the state of Montana in such manner as it shall deem necessary and proper to provide funds to finance the long-range building program. All bonds issued hereunder shall contain a statement that they are not and shall Board may sell bonds for long-range buliding program. Statements required in bonds.

HeinOnline -- 1971 vol. I 879 1971

never become a debt or liability of the state of Montana within the meaning of any constitutional or statutory limitation or provision, and that no ad valorem tax may be levied upon property within the state of Montana to pay principal thereof or interest thereon, but that the bonds and interest are payable solely from the proceeds of special taxes pledged and appropriated to the sinking fund account as provided in this chapter, and shall contain the pledge of the state of Montana to continue to levy and collect said special taxes and to apply the proceeds thereof to the retirement of said bonds and the payment of interest thereon. Bonds may be issued hereunder to provide funds for the payment or redemption of the outstanding War Veterans' Compensation Bonds and World War I Veterans' Compensation Bonds issued pursuant to Initiative No. 54, and the amendment thereof, chapter 270, Laws of 1963, and the outstanding long-range building program bonds issued under this section.

Payable from special taxes.

Bonds may issue to redeem veterans' compensation bonds.

(2) Each series of such bonds shall be issued by the board upon request of the controller, in such denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the execution and delivery of definitive bonds, bearing interest at such rate or rates, maturing at such times not exceeding thirty (30) years from date of issue, subject to redemption at such earlier times and prices and upon such notice, and payable at the office of such fiscal agency of the state of Montana, as the board shall determine subject to the limitations contained in this section.

Bond denominations and form.

Payable to designated fiscal agency.

(3) In the issuance of each series of such bonds, the amount, maturities and interest rates thereof shall be fixed in such manner that the maximum amount of principal and interest to become due in any subsequent fiscal year on all such bonds then outstanding and on the series so to be issued will not exceed fifty per centum (50%) of the average annual amount collected during the three (3) then next preceding fiscal years, from the special taxes pledged by law to the sinking fund account at the time of such issuance.

Limitations on amount, maturities and interest rates.

(4) In all other respects the board is authorized to prescribe the form and terms of the bonds, and shall do

Form and terms.

HeinOnline -- 1971 vol. I 880 1971

whatever is lawful and necessary for their issuance and payment. Such bonds and any interest coupons appurtenant thereto shall be signed by the members of the state board of examiners, and the bonds shall be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds issued and sold.

Signatures.

Seal.

Records.

(5) All proceeds of bonds issued hereunder shall be deposited in the clearance fund account, except that any premiums and accrued interest received shall be deposited in the sinking fund account. For the purposes set forth in subdivision (1) hereof, the state treasurer acting by and with the approval of the state board of examiners may set aside such funds as may be necessary to assure the redemption, or payment at maturity, of all of the outstanding War Veterans' Compensation Bonds and World War I Veterans' Compensation Bonds and as may be necessary or required to fulfill the obligations of the state of Montana by virtue thereof. With such funds the state treasurer with the approval of the state board of examiners is hereby authorized to call said bonds for redemption in accordance with the provisions thereof, at any redemption date, to pay said bonds on the maturity dates thereof, to deposit securities in escrow for the purpose of assuring such payments at future dates, and to take such other steps as may be necessary to fulfill all of the obligations of the state of Montana existing under the provisions of said bonds and the laws and resolutions authorizing the same.

Deposit of proceeds.

State treasurer may set aside funds to redeem veterans' bond.

Call for redemption.

(6) The state board of examiners is hereby authorized to employ a fiscal agent to assist in the performance of its duties hereunder."

Employment of fiscal agent.

Section 2. Section 79-2203, R.C.M. 1947, is amended to read as follows:

Amending clause.

"79-2203. **Sinking fund account.** (1) From and after the pledge and appropriation of any special tax to the sinking fund account, as provided and contemplated in this section, such tax shall continue in force and shall be available and shall be irrevocably pledged and appropriated for the payment of long-range building program bonds, and all money received from the collection thereof

Tax shall continue in force.

HeinOnline -- 1971 vol. I 881 1971

shall be deposited by the treasurer to the credit of the sinking fund account, so long as any such bonds or the interest thereon remains unpaid.

Order of payments—sinking fund monies.

(2) Money in the sinking fund account shall be used first to pay interest and principal when due on long-range building program bonds; second to accumulate a reserve in the amount required below, for the further security of such payments; and third to maintain this reserve in an amount at least equal, after each interest and principal payment, to the maximum amount of interest and principal which will become due on all such bonds which are then outstanding in any subsequent fiscal year.

Transfer of excess to general fund.

(3) Money at any time received in the sinking fund account in excess of the principal, interest and reserve requirements stated in subsection (2) shall be transferred by the treasurer to the general fund. If the balance at any time on hand in the sinking fund account is not sufficient for compliance with subsection (2), the treasurer shall credit to said account an amount sufficient to restore said balance from the next collections of the special taxes appropriated to said account, and from any other collections of taxes appropriated to the general fund, not exceeding the aggregate amount theretofore transferred from the sinking fund account to the general fund, and not including ad valorem taxes on property.

Restoration of balance.

Reservation of powers to tax.

(4) The state reserves the power, by enactment of the legislative assembly or the people, to levy, impose and assess and to pledge and appropriate to the sinking fund account any tax specially designated *therein,* except an ad valorem tax on property, or any specified amount or percentage of the collections of such special tax, provided that this power shall not be construed to constitute a pledge of the general credit of the state of Montana.

Power to appropriate.

The state also reserves the power to appropriate any funds designated by enactment of the legislative assembly or the people for the redemption and prepayment of any long-range building program bonds, or to authorize the issuance and sale of bonds for the purpose of refunding any such outstanding bonds or interest thereon, upon such terms and conditions as may be provided in said enactments and consistent with covenants and agreements made for the security of the outstanding bonds. Refunding bonds issued in advance of the maturity of the bonds refunded shall be issued only subject to the conditions stat-

Refunding bonds.

HeinOnline -- 1971 vol. I 882 1971

ed in subsection (3) of section 79-2202, substituting for this purpose the principal and interest requirements of the refunding bonds for those of the bonds refunded. Nothing herein shall prevent the board from issuing and selling refunding bonds, payable from the sinking fund account, to provide funds for payment of principal or interest due on long-range building program bonds, when and if and to the extent that the sinking fund account is insufficient for this purpose.

Payment of principal and interest.

(5) The state hereby pledges and appropriates, and directs to be credited as received to the sinking fund account, eleven per centum (11%) of all money received from the collection of the income tax and the corporation license tax referred to in section 84-1901, and such additional amount of said taxes, if any, as may at any time be needed to comply with the principal and interest and reserve requirements stated in subsection (2) of this section; provided that no more than eleven per centum (11%) of such tax collections shall be deemed to be pledged for the purpose of subsection (3) of section 79-2202. The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of said taxes.

Appropriations to sinking fund account.

Income tax and corporation license tax.

Limitations.

(6) *The state pledges and appropriates and directs to be credited to the sinking fund account fifteen per centum (15%) of all money received from the collection of the nine cents (9¢) excise tax on cigarettes which is levied, imposed and assessed by section 84-5606, subdivision (2).* The state *also* pledges and appropriates and directs to be credited as received to the sinking fund account all money received from the collection of each of the excise taxes on cigarettes which are levied, imposed and assessed by section 84-5606, subdivisions (3) and (4), as amended, after the payment and redemption in full of the outstanding bonds for which said taxes have heretofore been pledged and appropriated, or after the necessary funds have been set aside for such payment and redemption as provided in this act. The state also pledges and appropriates and directs to be credited as received to the sinking fund account all money received from the collection of the taxes on other tobacco products which are or may hereafter be levied, imposed and assessed by law for that purpose *including the tax levied, imposed and assessed by section 84-6802, R.C.M. 1947, enacted by section 2, chapter 12, Ex-*

15% of 9c excise tax on cigarettes.

Other excise taxes on cigarettes.

Taxes on other tobacco products.

HeinOnline -- 1971 vol. I 883 1971

Present bonds not affected.

traordinary Session Laws of 1969. Nothing herein shall impair or otherwise affect the provisions and covenants contained in the resolutions authorizing the War Veterans' Compensation Bonds, the World War I Veterans' Compensation Bonds or the presently outstanding long-range program bonds. Subject to the provisions of the preceding sentence, the pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of all taxes referred to in this subdivision (6)."

Amending clause.

Section 3. Section 79-2205, R.C.M. 1947, is amended to read as follows:

Maximum amount for long-range building program bonds.

"79-2205. **Authorization of bonds.** The board is authorized to issue and sell long-range building program bonds in an amount not exceeding *five* million, *five hundred thousand* dollars *($5,500,000),* over and above the amount of the long-range building program bonds *outstanding January 1, 1971,* upon the conditions and in the manner stated in this chapter. The board is also authorized to issue and sell long-range building program bonds in such amount as may be required to provide funds for the payment or redemption of outstanding bonds as contemplated in section 79-2202, subdivisions 1 and 5."

Amending clause.

Section 4. Section 84-5606, R.C.M. 1947, is amended to read as follows:

Presumption—direct taxes on retail consumer.

"84-5606. **The tax.** (1) All taxes paid pursuant to the provisions of this section shall be conclusively presumed to be direct taxes on the retail consumer precollected for the purpose of convenience and facility only. When the tax is paid by any other person such payment shall be considered as an advance payment and shall be added to the price of the cigarettes and recovered from the ultimate consumer or user. Any person selling cigarettes at retail shall state or separately display in the licensed premises a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this subdivision shall in no way affect the method of collection of such tax as provided by this section.

Retail seller shall state amount of tax.

Additional taxes on cigarettes.

(2) From and after the effective date of this amendatory law, there is hereby levied, imposed and assessed, and there shall be collected and paid to the state of Montana, upon cigarettes sold or possessed in this state,

HeinOnline -- 1971 vol. I 884 1971

the following excise tax which shall be paid prior to the time of sale and delivery thereof, to wit: *Nine cents (9¢)* on each package containing not more than twenty (20) cigarettes, and when packages shall contain more than twenty (20) cigarettes, then *nine cents (9¢)* on each twenty (20) or fraction of twenty (20) cigarettes contained in such package. 9c each package.

(3) From and after the effective date of this amendatory law there is hereby levied, imposed and assessed, and there shall be collected and paid to the state of Montana, upon cigarettes sold or possessed in this state, the following excise tax, in addition to the excise tax on cigarettes, levied, imposed and assessed by subdivision (2) of this section 84-5606, an additional tax which shall be paid prior to the time of sale and delivery of such cigarettes, to wit:

Two cents (2¢) on each package containing not more that twenty (20) cigarettes, and when packages shall contain more than twenty (20) cigarettes, then two cents (2¢) on each twenty (20) or fraction of twenty (20) cigarettes contained in such package; which additional tax shall continue in force until the payment and retirement of all bonds of the state of Montana, and the payment of interest thereon, issued under the authority of said Initiative No. 54 as amended, for the purpose of paying an honorarium to the residents of Montana who were in military service in the military forces of the United States in World War II, the Korean War, or World War I, and until the payment and retirement of all long-range building program bonds issued under the provisions of Title 79, chapter 22, of the Revised Codes of Montana, 1947. 2c each package—purpose.

(4) From and after the effective date of this amendatory act of the thirty-eighth legislative assembly of the state of Montana, there is hereby levied, imposed and assessed, and there shall be collected and paid to the state of Montana, upon cigarettes sold or possessed in this state, the following excise tax, in addition to the excise tax on cigarettes, levied imposed and assessed by subdivisions (2) and (3) of this section 84-5606, an additional tax which shall be paid prior to the time of sale and delivery of such cigarettes, to wit:

One cent (1¢) on each package containing not more than 1c each package—purpose.

HeinOnline -- 1971 vol. I 885 1971

twenty (20) cigarettes, and when packages shall contain more than twenty (20) cigarettes, then one cent (1¢) on each twenty (20) or fraction of twenty (20) cigarettes contained in such package; which additional tax shall continue in force until the payment and retirement of the additional bonds of the state of Montana authorized by amendatory acts of the thirty-fifth and thirty-eighth legislative assemblies, and the payment of the interest thereon and until the payment and retirement of all long-range building program bonds issued under the provisions of Title 79, chapter 22, of the Revised Codes of Montana, 1947.

Duty to affix tax insignia.

(5) Within seventy-two (72) hours after receipt by the distributor or dealer of any such cigarettes, except as hereinafter provided, he shall cause to be securely affixed thereto, the required insignia denoting the tax thereon. Said insignia shall be properly canceled prior to sale or removal for consumption under such regulations as the board may prescribe. Each package shall have the required insignia to affix thereto in such manner that the insignia will be destroyed when the package is opened. Every person who shall make, alter, forge or counterfeit any license stamp or insignia provided for in this law, or who shall assist or be concerned therein, or who shall have in his possession any altered, forged, counterfeit or spurious stamp, license or insignia, with intent to defraud the state, is guilty of forgery, and shall be punished by imprisonment in the state prison for not less than one (1) year or more than fourteen (14) years."

Penalties for forgery.

Amending clause.

Section 5. Section 84-5606.30, R.C.M. 1947, enacted by section 29, chapter 140, Laws of 1969, is amended to read as follows:

"84-5606.30. **Employment of clerical and field assistants — disposition of taxes — war veterans' compensation fund abolished.** The board is hereby authorized to employ such clerical and field assistants as may be necessary to properly administer the provisions of this law. All moneys collected under the provisions of subdivision (2) of section 84-5606, less the expense of collecting all the taxes levied, imposed and assessed by said section 84-5606, shall be paid to the state treasurer and deposited *as follows: fifty percent (50%) in the general fund, fifteen percent (15%) in the long-range building program account in the sinking fund, and thirty-five*

Employment of assistants.

Deposit of moneys.

HeinOnline -- 1971 vol. I 886 1971

(35%) in the long-range building program account in the bond proceeds and insurance clearance fund. All taxes levied, imposed and assessed under the provisions of subdivision (3) of said section 84-5606 shall, when collected, be paid to the state treasurer and credited to a subfund in the sinking fund and shall, while any of the bonds hereafter issued and sold for the purpose of paying an honorarium, or adjusted compensation, to the residents of Montana who were in military service in the military forces of the United States in World War I or World War II, or any of the interest thereon, remain unpaid, be available for the payment thereof. Use of taxes.

All taxes levied, imposed and assessed under the provisions of subdivision (4) of said section 84-5606 shall, when collected, be paid to the state treasurer and credited to a subfund in the sinking fund, which shall, while any of the bonds hereafter issued and sold, in addition to the bonds authorized by said Initiative Measure No. 54, as originally enacted, or any of the interest upon such additional bonds, remain unpaid, be used only for the payment thereof, and of the expenses of administration of this act.

The War Veterans' Compensation Fund established by Initiative No. 54, as amended by chapter 44, Laws of 1957, is abolished and all moneys in the fund are transferred to a subfund in the bond proceeds and insurance clearance fund. When all veterans' honoraria authorized by law have been paid, such moneys shall be transferred to the two (2) accounts in the sinking fund established by this section.

After all of the outstanding War Veterans' Compensation Bonds and World War I Compensation Bonds have been paid or redeemed, or after the necessary funds have been set aside for their payment or redemption, the balance of the proceeds theretofore collected under the provisions of subdivisions (3) and (4) of said section 84-5606 shall be transferred to the sinking fund account provided for in section 79-2203, R.C.M. 1947.

Section 6. This act is effective on its passage and approval. Effective immediately.

Approved March 5, 1971

HeinOnline -- 1971 vol. I 887 1971

CHAPTER 223

An Act Authorizing the Establishment of Student Building Fees at Montana State University; Repealing Chapter 372, Laws of 1969, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Power to collect student building fees.

Section 1. The state board of education of the state of Montana, ex officio regents of the Montana university system, is authorized to establish and collect student building fees, for all students or for all of any specified class of students in attendance at Montana State University, Bozeman, Montana, in the amount of nine dollars and twenty-five cents ($9.25) per student for each quarter of the academic year and for each summr session, and to pledge the receipts of such fees for the payment of the cost of acquisition, construction, and equipment of physical education, athletic, and recreation facilities at the university or of the principal and interest on revenue bonds to be issued to finance such facilities, in accordance with the provisions of Title 75, chapter 85, R.C.M. 1947. Three dollars ($3) of the fee so authorized is included in the student building fees established and in effect at the university on January 1, 1965, and the remainder is authorized as an increase in such fees pursuant to section 75-8503, R.C.M. 1947.

$9.25 per student.

Pledge of receipts for building purposes.

Repealing clause.

Section 2. Chapter 372, Laws of 1969, is repealed.

Effective immediately.

Section 3. This act shall be effective upon its passage and approval.

Approved March 5, 1971

CHAPTER NO. 224

An Act Regulating Mining Operations; Providing for the Reclamation of Mined Lands; and Repealing Sections 50-1001 through 50-1017, R.C.M., 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

The Montana open cut or strip mined land reclamation act.

Section 1. This act shall be known and cited as "The Montana Open Cut or Strip Mined Land Reclamation Act."

HeinOnline -- 1971 vol. I 888 1971

Section 2. It is the policy of this state to provide for the reclamation and conservation of land subjected to open cut or strip mining and thereby to preserve natural resources, to aid in the protection of wildlife and aquatic resources, to safeguard and reclaim through effective means and methods all agricultural, recreational, home and industrial sites subjected to or which may be affected by open cut or strip mining to protect and perpetuate the taxable value of property, and to protect and promote the health, safety and general welfare of the people of this state.

State board of land commissioners directed to contract for reclamation.

Section 3. The state board of land commissioners is hereby authorized and directed to enter into contracts in the name of the state of Montana with open cut or strip mining operators which will provide for the reclamation of lands on which open cut or strip mining has been or is to be conducted. The state board of land commissioners is authorized to sue and be sued in the name of the state of Montana to enforce the provisions of any contract, and said board shall bring such court actions and take such other steps and actions as may be necessary to enforce the provisions of such contracts.

Definitions.

Section 4. Definitions when used in this act, unless a different meaning clearly appears from the context:

"Contract."

(1) "Contract" means mined land reclamation "model" contract, dated January, 1971, prepared by the select committee on mined land reclamation contracts of the council on natural resources and development on file with the commission. Provided, however, said contract may be revised or changed from time to time by the commission, after consultation with the advisory committee and representatives of the affected industry. Such revised or changed contract shall become the 'model contract' as referred to in this section for all contracts entered into subsequent to the date of revision.

"Reclamation."

(2) "Reclamation" means the reconditioning of the area of land affected by open cut or strip mining operations.

"Open cut or strip mining."

(3) "Open cut or strip mining" means the mining of bentonite, clay, coal, sand, gravel, phosphate rock or uranium by removing the overburden lying upon natural deposits thereof, and mining directly from the natural deposits thereby exposed, including the removal of over-

HeinOnline -- 1971 vol. I 889 1971

burden for the purpose of determining the location, quality or quantity of any natural deposit of minerals.

"Overburden." (4) "Overburden" means all of the earth and other materials which lie above a natural deposit of a mineral or minerals, and also means such earth and other material after removal from their natural state in the process of open cut or strip mining.

"Operator." (5) "Operator" means any person engaged in and controlling an open cut or strip mining operation.

"Mineral." (6) "Mineral" means and includes bentonite, clay, coal, sand, gravel, phosphate rock and uranium.

"Affected land." (7) "Affected land" means the area of land from which overburden is to be or has been removed and upon which the overburden is to be or has been deposited.

"Commission." (8) "Commission" means the state board of land commissioners.

"Person." (9) "Person" means any natural person, or any firm, association, partnership, cooperative, corporation, or any department, agency or instrumentality of the state or any governmental subdivision, or any other entity whatsoever.

"Landowner." (10) "Landowner" means the owner of land directly or indirectly affected by an open cut or strip mining operation.

"Advisory committee." (11) "Advisory committee" means a committee consisting of the administrative head, or his authorized representative, of the following agencies: (1) state soil conservation committee; (2) department of fish and game; (3) office of state forester; (4) Montana water resources board; (5) department of planning and economic development; (6) department of health; (7) state bureau of mines and geology.

"Public notice." (12) "Public notice" means notice given by publication in a newspaper in the general area where the affected land is located. Such notice shall be given once a week for three (3) consecutive weeks.

Administrator. Section 5. The commission is the administrator of this act and it has all the power necessary to implement and enforce it. The commission shall employ, with the advice and consent of the advisory committee, a person

Employment of an expert.

HeinOnline -- 1971 vol. I 890 1971

experienced and qualified in the field of mined land reclamation and may delegate to such person such powers, duties and functions under this act as it deems necessary for the performance of its duties as administrators of this act. Such person shall be subject, however, to the supervision and control of the state land commissioner and the state board of land commissioners.

Delegation of powers and duties.

Supervision.

Section 6. The commission shall have and exercise the following powers, duties and functions:

Powers and duties of commission.

(1) To prepare and adopt rules and regulations pertaining to open cut or strip mining to accomplish the purposes of this act.

Rules.

(2) To conduct hearings and for the purposes of conducting such hearings, to administer oaths and affirmations, to subpoena witnesses, to compel attendance of witnesses, to hear evidence and to require the production of any books, papers, correspondence, memoranda, agreements, documents or other records relevant or material to the inquiry.

Hearings.

(3) To adopt uniform procedures for the filing of necessary records, the issuance of contracts, and for any other matters of administration not specifically enumerated in this act.

Uniform procedures.

(4) To cooperate with and accept advisory services from the United States Geological Survey, the United States Bureau of Land Management, the United States Forest Service, the United States Bureau of Mines, the United States Bureau of Indian Affairs, or other appropriate federal agencies and from any state agency to include the commission and department of fish and game, Montana bureau of mines and geology, Montana water resources board, state highway commission, department of agriculture, department of health, department of planning and economic development, state soil conservation committee, state forester, grass conservation commission, oil and gas conservation commission, agricultural experiment station, all units of the Montana university system, and from any person or landowner who might be interested or affected by any open cut or strip mining, or reclamation.

Advisory services.

(5) To reclaim any affected land with respect to which a bond has been forfeited.

Reclamation.

HeinOnline -- 1971 vol. I 891 1971

Investigations.

(6) To make investigations or inspections which may be deemed necessary to insure compliance with any provisions of this act.

Consultation with advisory committee.

(7) To consult with and review the recommendations of the advisory committee with respect to reclamation plans submitted by open cut or strip mining operators.

Operator required to contract for reclamation.

Section 7. From and after the effective date of this act, no operator shall conduct open cut or strip mining operations which shall result in the removal of ten thousand (10,000) cubic yards, or more, of product or overburden, until he has entered into a contract with the commission for the reclamation of the land affected.

Model contracts.

Nothing in this act shall impair the obligation of model contracts entered into under existing statutes.

Application form requirements.

Section 8. Applications for a contract shall be made upon a form furnished by the commission, which form shall contain the following:

(1) The name of the operator and, if other than the owner of the land, the name and address of the owner.

(2) The mineral to be extracted and the type of operation to be conducted.

(3) The volume of earth to be removed, as accurately as the same may then be estimated, and the volume which has been previously removed, if any.

(4) The location of the operation by legal subdivision, section, township and range, and county.

(5) The date when such operation was or will be commenced.

Plan of operation and reclamation.

(6) The operator must submit a plan of his operation and the method and manner of reclamation that will be used or followed. If the operator, prior to applying for a contract, notifies the commission of his intention to submit a plan, and requests the commission to examine the area to be mined, the commission shall cause the area to be examined and make recommendations to the operator regarding reclamation.

Statement of legal estate.

(7) A statement that the applicant has the right and power by legal estate owned to mine by open cut or strip mining the lands so described.

HeinOnline -- 1971 vol. I 892 1971

(8) The application shall be accompanied by: (a) a bond or security meeting the requirements as set out in this act; and (b) a fee of fifty dollars ($50). Upon receipt of such application, bond or security and fee due from the operator, and upon agreement to the terms of the contract by the parties, the commission shall issue a contract to the applicant which shall entitle him thereafter to continue in or engage in open cut or strip mining on land therein described.

Bond.

Fee $50.

Contract shall issue.

(9) An operator desiring to have his contract amended to cover additional contiguous or nearby land may file an amended application with the commission. Upon receipt of the amended application, and such additional bond as may be required, and upon agreement to the terms of the amendment by the parties, the commission shall issue an amendment to the original contract covering the additional land described in the amended application, without the payment of any additional fee.

Amended contracts.

(10) An operator may withdraw any land covered by contract, except affected land, by notifying the commission thereof, in which case the penalty of the bond or security filed by such operator pursuant to the provisions of this act shall be reduced proportionately.

Notice to commission—withdrawal of land.

Section 9. Any bond herein provided to be filed with the commission by the operator shall be in such form as the commission prescribes, payable to the state of Montana, and conditioned upon the operator's full compliance with all requirements of this act and all rules and regulations of the commission. Such bond shall be signed by the landowner or operator, as appropriate, as principal, and by a good and sufficient corporate surety, licensed to do business in the state of Montana, as surety. The penalty of such bond shall be in an amount not to exceed the costs of restoration required by this act as determined by the commission, but shall not be less than two hundred dollars ($200) nor more than one thousand dollars ($1,000) per acre.

Form of surety bond.

Amount of penalty.

In lieu of such bond, the operator may deposit cash and government securities or a bond with property sureties with the commission in an amount equal to that of the required bond on conditions as above prescribed. In the discretion of the commission, surety bond requirements may be fulfilled by the operator's posting a bond

Deposit in lieu of bond.

HeinOnline -- 1971 vol. I 893 1971

with land and improvements and facilities thereon as security, in which event no surety shall be required. The penalty of the bond or amount of cash and securities shall be increased or reduced from time to time as provided in this act. Such bond or security shall be and remain in effect until the mined acreages have been reclaimed, as provided under the contract, and approved and released by the commission, and shall from time to time cover only actual mined acreages and may be increased or reduced to cover only such acreages as remained unrestored.

Duration of bond or security.

Substitution of surety within 30 days of notice.

If the license to do business in the state of any surety upon a bond filed with the commission pursuant to this act shall be suspended or revoked, the operator, within thirty (30) days after receiving notice thereof from the commission, shall substitute for such surety a good and sufficient surety licensed to do business in the state. Upon failure of the operator to make substitution of surety, the commission shall have the right to suspend the contract of the operator to conduct operations upon the land described in such contract until such substitution has been made.

Reclamation—forfeited bond.

The commission shall cause to be reclaimed any affected land with respect to which a bond has been forfeited.

Notice of completion.

Release.

Whenever an operator shall have completed all of the requirements under the provisions of this act as to any affected land, he shall notify the commission thereof. If the commission shall release the operator from further obligation regarding such affected land, the penalty of the bond shall be reduced proportionately.

Appeal to district court.

Section 10. Appeals from decisions of the commission may be taken to the district court of the first judicial district of the state of Montana, in and for the county of Lewis and Clark, in which district the commission shall maintain its office, or the district court of any judicial district in which the land affected is situated, in whole or in part. Appeals from commission decisions may be taken immediately to said court without first requesting rehearing, reconsideration, or review of the commission, but, in order to perfect such an appeal, it shall be taken within thirty (30) days of the date of the decision of the commission. The appeal shall be perfected by the filing of

Within 30 days.

HeinOnline -- 1971 vol. I 894 1971

a notice of appeal with the commission and a copy of said notice with the clerk of the said district court. Notice.

Any party may move the court to remand the case to the commission to adduce additional specified material evidence if the party can show grounds for failure to adduce the evidence before the commission. The review by the district court shall be based solely upon the record of the hearing before the commission. If the court finds the decision of the commission is not supported by relevant, material, reliable, probative, or substantial evidence, it shall modify the decision of the commission or reverse. Motion to remand. Review of record.

Either party may perfect an appeal from the district court to the supreme court as in all civil cases. Appeal to supreme court.

Section 11. The commission may receive any federal funds, state funds, or any other funds for the reclamation of land affected by open cut or strip mining. The commission may cause the reclamation work to be done by its own employees or by employees of other governmental agencies, soil conservation districts, or through contracts with qualified persons. Commission may receive funds. Reclamation work.

Any funds or any public works programs available to the commission shall be used and expended to reclaim and rehabilitate any lands that have been subjected to open cut or strip mining that have not been reclaimed and rehabilitated in accordance with the standards of this act. Use of funds.

Section 12. All fees and forfeitures collected under the provisions of this act shall be deposited with the state treasurer in a reclamation account in the earmarked revenue fund, and all monies appropriated therefrom shall be used to accomplish the purposes of this act. Deposit of monies.

Section 13. The commission, or its accredited representatives, may enter upon the lands of the operator at all reasonable times for the purpose of inspection, to determine whether the provisions of this act have been complied with. Right to inspect.

Section 14. Anyone required by this act to have a contract and who engages in open cut or strip mining without previously securing a contract to do so as prescribed by this act is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred dollars ($500) and not more than one thousand dollars Misdemeanor. Penalties.

HeinOnline -- 1971 vol. I 895 1971

($1,000). Each day of operation without a contract required by this act shall be deemed a separate violation.

Credit toward payment of coal mines license tax.

Section 15. Any open cut or strip coal mine operator who shall enter into a contract with the commission providing for the reclamation of lands on which the strip mining of coal has been conducted shall annually receive credit toward the payment of the coal mines license tax provided in chapter 13 of title 64, R.C.M., 1947, in an amount equal to one-half (½) of the actual expenditure for the on site reclamation work performed on such lands under such contracts during the preceding year, said credit shall not exceed one cent (1¢) per taxable ton of coal mined by said operator.

Annual inspection.

The commission shall at least annually inspect each strip mining operation for coal in this state, and shall, if the operator of such mine has entered into a contract for the reclamation of strip mined lands, annually determine the actual expenditures for all reclamation work performed by such mine operator during the preceding year. The commission shall promptly, after each annual determination of such expenditure, report to the state board of equalization, the state treasurer, and the operator actual expenditures for reclamation work performed on strip mined lands during the immediately preceding year by each strip mine operator, and one-half (½) of the amount, not to exceed one cent (1¢) per taxable ton of coal mined by said operator and the amount so reported shall be deducted from coal mines license tax due from such operator pursuant to the provisions of chapter 13 of title 84, R.C.M., 1947, subject to the limitations herein set forth.

Determination of expenditures.

Reports.

Deduction from tax.

Power to reclaim.

Section 16. The commission shall have the power to reclaim, in keeping with the provisions of this act, any affected lands with respect to which a bond has been forfeited and to use monies appropriated from reclamation account in the earmarked revenue fund for such purposes.

Use of monies appropriated.

Severability clause.

Section 17. **Severability.** The provisions of this act are severable, and if any part or provision thereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts of provisions of this act that are severable from the invalid applications.

HeinOnline -- 1971 vol. I 896 1971

Section 18. Sections 50-1001 through 50-1017, R.C.M., 1947, are repealed. However, contracts entered into under the provisions of sections 50-1001 through 50-1017, R.C.M., 1947, are not affected hereby, and shall remain in effect until terminated or completed. Repealing clause. Validity of contracts.

Section 19. This act is effective on its passage and approval. Effective immediately.

Approved March 9, 1971.

CHAPTER NO. 225.

An Act Amending Sections 69-1501, 69-1502, 69-1503, 69-1504, 69-1505, 69-1507, 69-1508, 69-1509, 69-1510, 69-1511, 69-1512, 69-1513, 69-1514, 69-1515, 69-1516, 69-1517, 69-1601, 69-1602, 69-1603, 69-1604, 69-1607, 69-1701, 69-1702, R.C.M., 1947, and Repealing Sections 69-1518, 69-1605 and 69-1703, R.C.M., 1947, to Clarify and Update Sections of the Laws of Montana Relating to Boilers and Engines.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 69-1501, R.C.M., 1947, is amended to read as follows: Amending clause.

"60-1501. **Advisory committee — functions — appointment and terms of members—traveling expenses—rules and regulations—state inspectors of boilers, appointment, term and compensation—special boiler inspectors.** (1) There is hereby created to advise the industrial accident board an advisory committee which shall hereafter be referred to as the committee, consisting of three (3) members who shall be appointed by the governor, one for two (2) years, one for three (3) years and one for four (4) years. At the expiration of their respective terms or when vacancies occur they or their successors identified with the same interest respectively shall be appointed by the governor for terms of four (4) years each. Of these appointed members one (1) shall be a *Montana first class steam licensed* operating engineer of boilers *employed in that capacity at the time of his appointment,* (1) *shall be commissioned by the national board of boilers and pressure vessels inspectors and* shall represent the boiler insurance companies licensed to do business in the state, Advisory committee for industrial accident board created. Terms of office. Qualifications.

HeinOnline -- 1971 vol. I 897 1971

Chairman.

and one (1) shall be a *Montana registered professional* mechanical engineer. The committee shall elect one (1) of its members as chairman and shall meet *whenever required.*

Actual travel expenses.

The members of the committee shall serve without salary but shall receive actual travel expenses in the same manner as other state officers.

Technical advisors to board.

Rules and safety standards.

The committee shall act in a technical advisory capacity to the industrial accident board and shall formulate definitions, rules and regulations for the safe construction, installation, *operation,* inspection and repair of equipment covered by this act. The definitions, rules and regulations so formulated shall follow generally accepted nationwide engineering standards as published by the American society of mechanical engineers.

Appointment state inspectors of boilers.

(2) **Appointment, term and compensation of boiler inspectors.** The industrial accident board shall appoint state inspectors of boilers and shall prescribe their *duties,* term of office and fix their compensation.

Special inspectors—certificates.

In addition to the state boiler inspectors the industrial accident board shall issue to the inspectors of boiler insurance companies authorized to do business in the state, commissions, certificates or other recognition as special boiler inspectors and shall accept the inspection reports of such special inspectors as equivalent to those of the state inspectors, provided that each such special inspector shall hold a certificate as boiler inspector issued by the national board of boiler and pressure vessels inspectors. Such special inspectors shall receive no salary or expenses from the state nor shall the state collect inspection fees for inspections made by such special inspectors."

Amending clause.

Section 2. Section 69-1502, R.C.M., 1947, is amended to read as follows:

Qualifications for inspectors.

"69-1502. **Qualifications of boiler inspectors.** No person is eligible to hold the office of inspector of boilers and steam engines who has not had at least ten years of actual experience in the operation of steam engines, steam boilers, and steam machinery, and who has not held for at least *three (3)* years immediately preceding his appointment, a first-class stationary engineer's license of the state of Montana, or who is directly or indirectly interested in the manufacture or sale of boilers or steam

HeinOnline -- 1971 vol. I 898 1971

machinery, or any patented article required to be sold relating thereto."

Section 3. Section 69-1503, R.C.M., 1947, is amended to read as follows: Amending clause.

"69-1503. **Inspection of boilers—boiler installations.** (1) The inspector of boilers must inspect all boilers and steam generators before the same are used, and all persons who bring into this state, *for operation in this state,* any boiler or boilers must notify the *board* stating the number and kind of boilers, and where they are to be located and operated in this state, and must secure from the *board* a certificate of inspection before said boilers are placed in operation, except in the case of new boilers, which must be inspected within ninety (90) days after they are put in use, and all boilers must be inspected at least once in every year, except boilers exempt under provisions of section 69-1515. *Upon written application, longer inspection intervals may be authorized by the board. Any owner, operator or user who opens a boiler or boilers between inspections for repair or other reasons must notify the board of such action and such boiler or boilers shall at the discretion of the board be inspected by the state or special boiler inspector before the boiler or boilers may be placed back in operation.* Any person failing to give notice to the *board* as herein provided, or who operates such boilers without a certificate from the *board,* shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense, or by imprisonment in the county jail for not less than thirty (30) nor more than ninety (90) days, or by both such fine and imprisonment.

Duty to inspect before use.

Notice to board.

Certificate of inspection.

Annual inspection.

Application for extension.

Notice of repairs.

Penalties for violations.

(2) *When necessary, the boiler inspector shall* subject boilers, except those exempted by 69-1515, to hydrostatic pressure, which hydrostatic pressure *shall not exceed one hundred fifty percent (150%) of* the steam pressure allowed on the boilers, providing there are no such leaks on such boilers which prevent the inspector from applying such hydrostatic pressure. And the inspector must satisfy himself by a thorough interior and exterior examination that the boilers are well-made and of good and suitable material; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat, are of the proper dimensions and free from obstructions; that the flues are circular in shape;

Inspections.

Hydrostatic pressure.

Other requirements.

HeinOnline -- 1971 vol. I 899 1971

that the fire line of the furnace is at least two (2) inches below prescribed minimum water line of the boilers; that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby, and that such boilers and the steam connections may be safely employed without danger to life.

Special installation and operating permit.

(3) **New boiler installations.** No boiler which does not conform to the rules and regulations formulated by the committee governing new construction and installation shall be installed and operated in this state after twelve (12) months from the date upon which the first rules and regulations under this act pertaining to new construction and installation shall have become effective, unless the boiler is of special design or construction, and is not covered by the rules and regulations, nor is in any way inconsistent with such rules and regulations, in which case a special installation and operating permit may at its discretiaon be granted by the committee."

Amending clause.

Section 4. Section 69-1504, R.C.M., 1947, is amended to read as follows:

Inspection of safety valves.

"69-1504. **Inspection of boilers—further requirements in making inspection.** (1) The inspector must also satisfy himself that the safety valves are of suitable *relieving capacity ratings,* sufficient in number and area, and properly arranged, and that the safety-valves are properly adjusted so as to allow no greater pressure in the boilers than the amount prescribed by the inspection certificate; that there are a sufficient number of gauge cocks properly inserted to indicate the amount of water, and suitable gauges that will correctly record the pressure of steam; and adequate and certain provisions for an ample supply of water to feed the boilers at all times, and that suitable means for blowing out are provided, so as to thoroughly remove mud and sediment from all parts of the boilers when they are under pressure of steam, and any renter, user, or owner of a boiler, or any person or persons who tamper with the safety valve to allow the boiler to carry greater pressure than is allowed by the inspection certificate, shall be deemed guilty of a misdemeanor.

Gauge cocks and gauges.

Water supply.

Sediment removal.

Tampering—misdemeanor.

Specific factors—construction and installation.

(2) Where a boiler is constructed with lap horizontal seams on boiler, dome, or drum, a factor of four and one-half shall be used in determining the safe working pressure allowed on such boiler. But where the boilers are con-

HeinOnline -- 1971 vol. I 900 1971

structed with butt-strap horizontal seams, a factor of four may be used in determining such safe working pressure. If boiler rests on side wall on lugs, or is hung by I-beams, or is in any way set up so that the weight of the boiler is pulling against the horizontal seam of rivets, a factor of five must be used to determine the safe working pressure allowed on boiler. Where the horizontal lap seams of boiler are exposed to the fire, a factor of five must be used to determine the safe working pressure to be allowed on such boiler. On stay bolts, if new, seven thousand five hundred pounds pressure per square inch shall be allowed. If such stay bolts are corroded or defective, the inspector must determine the pressure to be allowed on same. On braces made of solid material, eight thousand pounds pressure per square inch shall be allowed. On welded braces or braces with only one crow-foot, six thousand pounds pressure per square inch shall be allowed. No cast iron shall be used in the construction or reinforcements of any boiler where the pressure allowed on said boiler is more than one hundred pounds per square inch."

Stay bolts.

Braces.

Cast iron prohibited.

Section 5. Section 69-1505, R.C.M., 1947, is amended to read as follows:

Amending clause.

"69-1505. **Inspection of boilers—material to be used.** No boiler or steam pipe, nor any of the connections thereto, *shall* be approved which is made in whole or in part of bad material, or is unsafe from any cause. Nothing herein shall be construed to prevent the use of any boiler or steam generator which may not be constructed of riveted iron or steel plates, when the inspector has satisfactory evidence that such boiler or steam generator is equal in strength to and as safe from explosion as boilers of the best quality, constructed of iron or steel plates."

Inspection of materials.

Section 6. Section 69-1507, R.C.M., 1947, is amended to read as follows:

Amending clause.

"69-1507. **Duty of owner to permit inspection—***board action* — costs and expenses. It is the duty of the owners, *engineers,* or managers of steam *or water* boilers to allow the inspector free access to the same. In case the owner, *operators,* or manager of any boiler is notified by the inspector to have said boiler ready for inspection on a *certain* day, and fails to have such boiler ready for inspection at such time, the inspector shall *notify the board to gain access to said boiler.* Any person *failing to immedi-*

Duty to allow access to inspector.

Violation.

HeinOnline -- 1971 vol. I 901 1971

ately comply with board directed access to said boiler shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than two months nor more than six months, or by both such fine and imprisonment. *The* owner, *engineer* or manager of any boiler *who has refused access resulting in a board order* must pay all transportation and hotel expenses of the inspector who makes the inspection *directed by such order,* in addition to the inspection fee provided by law. It shall be the duty of the engineer operating any boiler or boilers to assist the inspectors in their examination of the same, and point out any defects known to him in the boilers or machinery under his charge. Any engineer not complying with this section shall have his license revoked or suspended."

Penalties.

Expenses and fees.

Duty to assist inspector.

Amending clause.

Section 7. Section 69-1508, R.C.M., 1947, is amended to read as follows:

License required to operate boilers.

"69-1508. **Licenses required—penalty for operating without license.** No person *shall* be granted a license to operate steam or *water* boilers *and* steam machinery under the provisions of this article, who has not *met the qualifications for licensing* and found *to be* competent *by examination* to perform the duties of an engineer, and received a license so to act. Any person who operates any boiler or steam engine without first obtaining a license is guilty of a misdemeanor ,and upon conviction shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment."

Violation.

Penalties.

Amending clause.

Section 8. Section 69-1509, R.C.M., 1947, is amended to read as follows:

Classification of engineers.

"69-1509. **Classification and licensing of engineers.** (1) Engineers entrusted with the *operation,* care and management of steam *or water boilers and steam* machinery as specified in the preceding section must be divided into four classes, namely, first-class engineers, second-class engineers, third-class engineers, and low-pressure engineers.

Classifications of licenses.

(2) Licenses for the operation of steam or water

HeinOnline -- 1971 vol. I 902 1971

boilers and steam machinery shall be divided into four classifications in accordance with the following:

First class. *(a) First-class engineers shall be licensed to operate all classes, pressures, and temperatures of steam and water boilers and steam driven machinery with the exception of traction and hoisting engines.*

Second class. *(b) Second-class engineers shall be licensed to operate steam boilers operating not in excess of two hundred fifty (250) pounds per square inch gauge saturated steam pressure or water boilers operating not in excess of three hundred seventy-five (375) pounds per square inch gauge pressure and four hundred fifty degrees Fahrenheit (450°F.) temperature, and steam driven machinery not to exceed one hundred (100) horsepower per unit with the exception of traction and hoisting engines.*

Third class. *(c) Third-class engineers shall be licensed to operate steam boilers operating not in excess of one hundred (100) pounds per square inch gauge saturated steam pressure or water boilers operating not in excess of one hundred sixty (160) pounds per square inch gauge pressure and three hundred fifty degrees Fahrenheit (350°F) temperature.*

Low-pressure. *(d) Low-pressure engineers shall be licensed to operate steam boilers operating not in excess of fifteen (15) pounds per square inch gauge pressure or water boilers operating not in excess of fifty (50) pounds per square inch gauge pressure and two hundred fifty degrees Fahrenheit (250°F) temperature.*

Applicant qualifications. *(3) Each applicant for an engineer's license shall meet the following minimum requirements for the class of engineer's license for which application is being made. Each applicant for any classification must be physically and mentally capable of performing the required duties for the class of engineer's license for which application is being made.*

Low-pressure. *(a) Applicants for low-pressure engineer's license shall have no less than three (3) months' full-time experience in the actual operation of a boiler in this classification and successfully pass a written examination prescribed by the board and has passed his eighteenth birthday and is found to be competent to operate a boiler or boilers in this classification shall be granted a low-pressure engineer's license.*

Third class. *(b) Applicants for third-class engineer's license shall have no less than six (6) months' full-time experience in*

HeinOnline -- 1971 vol. I 903 1971

the actual operation of a boiler in this classification, under an engineer holding a valid third-class or higher license, and successfully pass a written examination prescribed by the board and has passed his eighteenth birthday and is found to be competent to operate a boiler or boilers in this classification shall be granted a third-class engineer's license.

Second class.

(c) Applicants for second-class engineer's license shall have:

(1) No less than two (2) year's full-time experience in the actual operation of a boiler and steam *driven machinery in this classification, under an engineer holding a valid second-class or first-class license, and successuflly pass a written examination prescribed by the board and has passed his twentieth birthday and is found to be competent to operate a boiler or boilers and steam driven machinery in this classification shall be granted a second-class engineer's license; or*

(2) Hold a valid third-class engineer's license and have no less than one (1) year's full-time experience in the actual operation of a boiler and steam driven machinery in this classification, under an engineer holding a valid second-class or first-class license, and successfully pass a written examination prescribed by the board and has passed his twentieth birthday and is found to be competent to operate a boiler or boilers and steam driven machinery in this classification shall be granted a second-class engineer's license.

First class.

(d) Applicants for first-class engineer's license shall have:

(1) No less than three (3) years' full-time experience in the actual operation of a boiler and steam driven machinery in this classification, under an engineer holding a valid first-class license, and successfully pass a written examination prescribed by the board and has passed his twenty-first birthday and is found to be competent to operate a boiler or boilers and steam driven machinery in this classification, shall be granted a first-class engineer's license; or

(2) Hold a valid second-class engineer's license and have no less than one (1) year's full-time experience in the actual operation of a boiler and steam driven machin-

HeinOnline -- 1971 vol. I 904 1971

ery in this classification, under an engineer holding a valid first-class license, and successfully pass a written examination prescribed by the board and has passed his twenty-first birthday and is found to be competent to operate a boiler or boilers and steam driven machinery in this classification shall be granted a first-class engineer's license; or

(3) Hold a valid third-class engineer's license and have no less than two (2) year's full-time experience in the actual operation of a boiler and steam driven machinery in this classification, under an engineer holding a valid first-class license, and successfully pass a written examination prescribed by the board and has passed his twenty-first birthday and is found to be competent to operate a boiler or boilers and steam driven machinery in this classification shall be granted a first-class engineer's license.

(e) Allowable exceptions or variances to the foregoing minimum requirements are as follows: Allowable variations.

(1) Applicants for engineer's license in any classification holding a valid license in that classification from another state with licensing requirements equal to or exceeding the foregoing minimum requirements for the state of Montana and successfully pass a written examination prescribed by the board and is found to be competent to operate a boiler or boilers and steam driven machinery in that classification shall be granted a license in that classification. Reciprocity.

(2) Operating experience in a classification satisfactory to the board, accumulated in United States military services or the merchant marine service may be accepted in lieu of the operating experience required for licensing of engineers in each of the foregoing classifications. Military experience.

(3) Applicants with training in the actual operation of steam or water boilers and steam machinery who have been certified as having satisfactorily completed a prescribed training course from a recognized vocational-technical training school or center or other board approved institution or training program in the classification for which he is applying may at the discretion of the board be credited with a maximum of six (6) months' experience toward first, second, or third-class engineer's license. Trainees.

(4) None of the licenses in this section above named shall entitle the holder thereof to operate a traction engine, Traction engineers license.

HeinOnline -- 1971 vol. I 905 1971

but all persons who are entrusted with the care and management of traction engines, or boilers on wheels, are required to pass an examination as to their competency to operate such class of machinery and to procure a license to be known as a traction license. Such traction license shall not entitle the holder thereof to operate any other class of steam machinery specified in the preceding section.

Qualifications.

Applicants for a traction engineer's license shall have no less than six (6) months' full-time experience in the operation of steam traction engines and successfully pass a written examination prescribed by the board and has passed his eighteenth birthday and is found to be competent to operate a traction engine shall be granted a traction engineer's license.

Waiver for hobby.

The board at its discretion may waive the experience requirement for operators of traction engines which are maintained and operated as a hobby for the restoration and show purposes of antique equipment."

Amending clause.

Section 9. Section 69-1510, R.C.M., 1947, is amended to read as follows:

Duty of board to investigate complaints.

"69-1510. **Complaints and revocation of license.** Whenever complaint is made against an engineer holding a license that he through negligence, want of skill, or inattention to duty, permitted his boiler*(s)* to burn or otherwise become in bad condition, or that he has been found intoxicated *or under the influence of drugs* while on duty, it is the duty of the *board* to make a thorough investigation of the charge, and upon satisfactory proof of such charge to revoke the license of *said* engineer."

Amending clause.

Section 10. Section 69-1511, R.C.M., 1947, is amended to read as follows:

"69-1511. **Certificate of inspection — penalty for wrongfully issuing certificate of inspection or licenses.**

Conduct of inspections.

In making an inspection of the boilers and machinery herein provided for, the inspectors may act jointly or separately, but the inspector or assistant inspector making such

Certification seal.

inspection must in all cases certify the same under the seal

Penalties for false certification.

of the *inspector of boilers and safety.* Any inspector or assistant inspector who willfully and feloniously certifies regarding any boilers or their attachments, or grants a license to any person to act as engineer contrary to the provisions of this article, is punishable under the provisions of section 94-35-214.

Display of certificates.

All certificates of inspection, operating certificates and engineer's licenses must be displayed in a conspicuous place in the boiler room."

HeinOnline -- 1971 vol. I 906 1971

Section 11. Section 69-1512, R.C.M., 1947, is amended to read as follows: Amending clause.

"69-1512. **Fees for inspection or examination.** (1) *All fees for inspection are to be paid to the industrial accident board* in accordance with the following schedule *based on safety valve setting:* Inspection fees.

(a) Boilers with pressure under thirty (30) pounds per square inch $10

(b) Boilers with pressure from thirty (30) pounds to one hundred (100) pounds per square inch $15

(c) Boilers with pressure from one hundred (100) pounds to three hundred (300) pounds per square inch $20

(d) Boilers with pressure over three hundred (300) pounds per square inch $30

(e) Miniature boilers with pressure not in excess of one hundred (100) pounds per square inch $10

(f) Steam traction ..... $ 5

(g) Operating certificate ..... $ 4

In case of the failure of the owner, manager or person in charge of any boiler to pay such fee *to the industrial accident board, the board shall initiate the necessary legal action to collect said fee. Failure of any person to immediately abide with results of such board action* shall be deemed guilty of a misdemeanor and punished as provided by section 69-1507. Collection. Penalties.

(2) Whenever, upon request of the owner or operator of any boiler it is necessary for the inspector to make a special trip for the inspection of the boiler, the mileage and per diem allowed by law, in addition to the fees herein prescribed, shall be charged and collected by the *industrial accident board.* Special inspections. Mileage. Per diem.

(3) Applicants for engineer's license shall pay fees according to the class of license for which application is made, as specified in the following schedule: Fees.

(a) First class $30

(b) Second class $20

HeinOnline -- 1971 vol. I 907 1971

(c) Third class $12

(d) Low pressure ..... $ 8

(e) Traction $12

(f) Renewal of license ..... $ 4

(g) Replacement of lost certificate ..... $ 2

Payment.

(4) Each application shall be accompanied by a payment equal to fifty percent (50%) of the license fee for which application is being made; said payment shall be forfeit in the event the applicant fails to appear for the examination at the scheduled time or fails to pass the examination.

Forfeiture.

45 day waiting period.

In case of the failure of any applicant to *successfully pass an* examination, *forty-five (45)* days must elapse before he can again be examined for license."

Amending clause.

Section 12. Section 69-1513, R.C.M., 1947 ,is amended to read as follows:

Within 45 days—request for review.

"69-1513. **Re-examination for license. If any person** who has applied for a license under the provisions of this article, and has been rejected, feels aggrieved, he may at any time after the lapse of ten days, and within *forty-five (45)* days after the date of his rejection, in writing set forth the causes of his grievance and *request a board review.* Such *request* must be addressed to the *board* and shall be *signed* by the rejected applicant. Within two days after receiving such *request,* it is the duty of the *board* to notify the applicant in writing that on a *certain day,* which shall not be less than five nor more than *thirty (30)* days after the date *the board receives said written request, the committee shall review and evaluate the application. The applicant may appear in person at said review if he so desires.* At least two days before the day set for *the review* the applicant *may* designate in writing to *the board* the name of an engineer holding a *valid license* of equal *or higher* grade with the one applied for, and such engineer may present himself *in behalf of the applicant* upon the day and at the hour fixed for the *review.*"

Procedure.

Notice.

Review.

Right to expert testimony.

Amending clause.

Section 13. Section 69-1514, R.C.M., 1947, is amended to read as follows:

Decision of board on review.

"69-1514. **Board** *review.* After *said review* is completed, and if a majority of *the committee* decides that

HeinOnline -- 1971 vol. I 908 1971

such applicant is entitled to the license he has applied for, the *board shall* without delay issue a *license* accordingly, but if a majority of *the committee* rejects the applicant, it is a final rejection, and he must not be granted another examination for the space of *forty-five (45)* days after such last rejection, when he may again apply as provided by section 69-1512."

Amending clause.

Section 14. Section 69-1515, R.C.M., 1947, is amended to read as follows:

"69-1515. **Boilers exempted from provisions—duty of owner of traction engine—notice of purchase of boiler.** (1) This act shall not apply to boilers under federal control. The provisions of this act requiring inspections, inspection fees and certificates shall not apply to steam heating boilers *operated at* not over fifteen (15) *pounds per square inch gauge pressure* in private residences or apartments of six (6) or less families or to hot water heating or supply boilers operated at not over *fifty (50) pounds per square inch gauge pressure* and temperatures not over two hundred fifty degrees Fahrenheit (250°F) when in private residences or apartments of six (6) or less families. *Locomotives,* commonly known as dinkey engines, used in operating logging or mining railroads, or any similar work where such locomotives are owned, leased or operated by any individual, company, or corporation and are used in the business of such individual, company, or corporation, and not for general commercial purposes, shall be classed as traction engines and be subject to inspection as are other traction engines, and the persons operating or firing such dinkey locomotives shall be required to hold traction licenses. *No* persons operating any of the engines or boilers *hereinbefore* exempted from the operation of this article *shall be* required to procure license from the *board.*

Boiler exemptions.

Licenses not required.

(2) Any person purchasing any boiler whether traction or stationary shall be entitled to receive from the seller the certificates of inspection issued on such boiler and any person purchasing any boiler, whether traction or stationary, not exempted by the provisions of this section, shall, within ten (10) days after such purchase, report the fact of such purchase to the *board and shall notify the board as to where said boiler will be installed and operated.* Any person failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor. All other boilers and steam engines, *except* as herein exempted, come under

Purchaser entitled to receive certificates of inspection.

Notice to board of installation.

Misdemeanor.

HeinOnline -- 1971 vol. I 909 1971

the provisions of this article and persons operating same are required to hold the proper grade of license."

Amending clause.

Section 15. Section 69-1516, R.C.M., 1947, is amended to read as follows:

Annual renewal.

Assessment for failure to renew.

Re-application for license.

Exception.

"69-1516. **Certificates must be renewed yearly—disposition of moneys.** All certificates of license to engineers of all classes shall be renewed yearly, except as herein provided. Any engineer failing to renew his license as herein provided, or within at least thirty days *after the date of expiration shall be assessed* the fee for the original license of the same grade, before the license *will* be reissued. *Any engineer failing to renew his license within twelve months of the date of expiration, must reapply for an engineer's license as required by the provisions of section 69-1509;* provided, however, that any engineer whose license expired while such engineer was in the military or naval service of the United States shall have *ninety (90)* days from the time such engineer is discharged from such military or naval service within which to renew his license at the renewal fee."

Amending clause.

Section 16. Section 69-1517, R.C.M., 1947, is amended to read as follows:

Unlawful to operate without license.

Emergencies.

Qualifications unlicensed engineer.

Maximum employment 15 days.

"69-1517. **Operation of boiler or steam engine without license.** It is unlawful for any person in this state to operate a stationary boiler or steam engine, or any boiler or steam engine other than engines and boilers exempted by the provisions of section 69-1515, without a license granted under the provisions of this article. The owner, renter, or user of any engine or boiler is equally liable for the violation of this section. But in case of accident, sickness, or any unforeseen prevention of the licensed engineer employed by any owner, renter, or user of *an* engine or boiler, the owner, renter, or user may, for fifteen days employ any person of the age of eighteen years *or over* whom he may consider competent to run the engine or boiler, although such person so employed may not be the holder of an engineer's license, *he shall have reasonable qualifications acceptable to the board.* The person so employing the unlicensed engineer *shall* immediately notify the *board.* But no owner, renter, or user of *boilers* or steam machinery shall be allowed to so employ unlicensed engineers for more than fifteen days in any one calendar year. And it shall be unlawful, except as stated in this section,

HeinOnline -- 1971 vol. I 910 1971

for any person, firm, or corporation to employ any person not duly licensed as an engineer, within the meaning of this act, to run or operate any of the boilers or engines subject to the provisions of this act."

Section 17. Section 69-1601, R.C.M., 1947, is amended to read as follows: Amending clause.

"69-1601. **Operators of hoisting engines must require licenses.** *(1)* It shall be unlawful for any person to operate *any* hoisting engine *driven by any power* when used in lowering or hoisting *personnel in industrial operations or on construction projects,* or any air compressor operated by any power without first obtaining a license therefor from *the board* as herein provided. Except that in emergencies the provisions of section 69-1517 relating to the employment of unlicensed engineers shall apply to the operation of the engines and machinery named herein. License required for hoisting machine operator. Emergencies.

(2) First-class hoisting engineers shall be licensed to operate hoisting engines driven by any power and unlimited horsepower used in the lowering or hoisting of personnel in industrial operations or on construction projects. First class.

(3) Second-class hoisting engineers shall be licensed to operate hoisting engines driven by any power and not in excess of one hundred (100) brake horsepower used in the lowering or hoisting of personnel in industrial operations or on construction projects." Second class.

Section 18. Section 69-1602, R.C.M., 1947 is amended to read as follows: Amending clause.

"69-1602. **Application and fee for license—renewal and revocation of license.** Application for such licenses shall be made to the *board* in the *same* manner, and the same fee shall be charged therefor as now required by law for obtaining a license to operate steam engines and boilers, and such license shall be given for a period of one year from the date of issuance thereof, and may be renewed in the same manner provided by law for the renewal of a license to operate steam engines or boilers; provided, that the *board* shall have the right to revoke any license issued under the provisions of this act for any of the reasons for which *the board* could revoke a license to operate steam engines and boilers." Application and fees. Annual renewal of license. Revocation.

Section 19. Section 69-1603, R.C.M., 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1971 vol. I 911 1971

Scope of license.

"69-1603. **Scope of license**—*exemptions. (1)* A licensed granted under the provisions of this act shall entitle the holder thereof to operate any of the machinery named in section 69-1601, and the license shall specify on its face such machinery, but no license issued hereunder shall authorize or qualify the person to whom issued to operate a boiler or steam engine.

Exemptions.

(2) The provisions of this act shall not apply to hoisting engines or elevators under federal control or to operating elevators in completed private or public buildings."

Amending clause.

Section 20. Section 69-1604, R.C.M., 1947, is amended to read as follows:

Qualifications for hoisting engineer's license.

"69-1604. **First and second-class licenses—qualifications of applicant.** *(1) Each applicant for a hoisting engineer's license shall meet the following minimum requirements for the class of license for which application is being made. Each applicant for any classification must be physically and mentally capable of performing the required duties for the class of license for which application is being made.*

Second class.

(a) Applicants for second-class hoisting engineer's license shall have no less than two years' experience in the actual operation of hoisting equipment in this classification under an engineer holding a valid second-class or first-class license and successfully pass a written examination prescribed by the board and has passed his twentieth birthday and is found to be competent to operate hoisting equipment in this classification shall be granted a second-class hoisting engineer's license.

First class.

(b) Applicants for first-class hoisting engineer's license shall:

(1) Have no less than three years' experience in the actual operation of hoisting equipment in this classification under an engineer holding a valid first-class license and successfully pass a written examination prescribed by the board and has passed his twenty-first birthday and is found to be competent to operate hoisting equipment in this classification shall be granted a first-class hoisting engineer's license; or

(2) Hold a valid second-class license and have no less than six (6) months' experience in the actual operation of hoisting equipment in this classification under an engi-

HeinOnline -- 1971 vol. I 912 1971

neer holding a valid first-class license and successfully pass a written examination prescribed by the board and has passed his twenty-first birthday and is found to be competent to operate hoisting equipment in this classification shall be granted a first-class hoisting engineer's license.

Reciprocity.

(c) Applicants for first or second-class hoisting engineer's license holding a valid license in that classification from another state with licensing requirements equal to or exceeding the foregoing minimum requirements for the state of Montana and successfully pass a written examination prescribed by the board and is found to be competent to operate hoisting machinery in that classification shall be granted a license in that classification.

Prior license holders.

(d) Applicants for first or second-class hoisting engineer's license holding a valid first or second-class engineer's license for the operation of boilers, steam machinery and hoisting engines for the state of Montana prior to enactment of this act shall, upon application during a period not to exceed twelve (12) months after enactment of this act, be granted a hoisting engineer's license in that classification."

Amending clause.

Section 21. Section 69-1607, R.C.M., 1947, is amended to read as follows:

Penalties for violations.

"69-1607. **Penalty for operating machinery without license.** Every person who operates any of the engines and machinery named in section 69-1601 for which a license is required, without first obtaining a license as required by the provisions of this act, and every owner, employer, or manager of any such engines or machinery who permits any unlicensed person to operate the same, or any person who violates any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail not more than six months, or by both such fine and imprisonment."

Amending clause.

Section 22. Section 69-1701, R.C.M., 1947, is amended to read as follows:

Computation of capacity—steam traction engines.

"69-1701. **Computation of capacity of** *steam* **traction engines—marking on engines.** The capacity or initial power of all *steam* traction engines or machinery propelled

HeinOnline -- 1971 vol. I 913 1971

or operated by *steam,* when sold or offered for sale within this state, must be computed and determined by the drawbar horsepower; that is, the initial pulling power of such engines or machinery, and not otherwise; and such power or capacity shall be plainly engraved in figures with the letters "H. P." on a metallic templet or plate, which templet or plate shall, before such engine or machine is sold or offered for sale, be securely fastened thereto, in such manner and place and of sufficient size as to be easily seen and read. And all new engines or machinery named herein *shall* be engraved or branded with the shop number, which shall be in some place easily observed."

Markings required on machine.

Amending clause.

Section 23. Section 69-1702, R.C.M., 1947, is amended to read as follows:

Inspection and fees.

"69-1702. **Inspection—fees.** *Inspection of steam traction boilers and fees for inspection shall be in accordance with the applicable requirements of section 69 chapter 15.*"

Repealing clause.

Section 24. Sections 69-1518, 69-1605 and 69-1703 are hereby repealed.

Approved March 9, 1971.

CHAPTER NO. 226.

An Act Amending Sections 53-106, 53-118, 53-120 and 53-122 Relating to Motor Vehicle Number Plates, Motor Vehicle Dealer's License, Replacing Motor Vehicle Number Plates, and Registration Fees of Motor Vehicles.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 53-106, R.C.M., 1947, is amended to read as follows:

Motor vehicles must display number plate front and rear.

"53-106. **(1757)....Number plates.** (1) Every motor vehicle which shall be driven upon the streets or highways of this state shall display both front and rear a number plate, bearing the distinctive number assigned such vehicle. Such number plate shall be in eight series: one series for owners of motor cars, one for owners of motor vehicles of the motorcycle type, one for trailers, one for trucks, one for dealers in vehicles of the motorcycle type *which shall bear the distinctive letters "MCD"*

HeinOnline -- 1971 vol. I 914 1971

or the letters "MC" and the word "DEALER," one for franchised dealers in new motor cars (including trucks and trailers) or new and used motor cars (including trucks and trailers) which shall bear the distinctive letter "D" or the word "DEALER," one for dealers in used motor cars only (including used trucks and trailers) which shall bear the distinctive letters "UD" or the letter "U" and the word "DEALER," and one for dealers in trailers and/or semi-trailers (new or used) which shall bear the distinctive letters "DTR" or the letters "TR" and the word "DEALER," and all such markings for the aforementioned kinds of dealers' plates shall be placed on the number plates assigned thereto in such position thereon as the registrar may designate. All number plates for motor vehicles shall be issued every other year, *provided that number plates will next be issued in the year 1973 and in alternate years thereafter,* shall bear a distinctive marking, and shall be furnished by the state. In alternate years the registrar shall provide nonremovable stickers bearing appropriate registration numbers which shall be affixed to the license plates in use.

Issued 1973 and alternate years.

Alternate year stickers.

(2) In the case of motor cars, number plates shall be of metal six inches wide and twelve inches in length, the outline of the state of Montana shall be used as a distinctive border on such license plates, and the word "Montana" with the year shall be placed across the bottom of the plate. Such registration plate shall be treated with a reflectorized background material according to specifications prescribed by the registrar. An additional fee of fifty (50) cents per year for each registration of a vehicle shall be added to the registration fee. Revenue from this fee shall be forwarded by the respective county treasurers to the state treasurer for deposit in the motor vehicle recording account of the earmarked revenue fund. Disbursements from the motor vehicle recording account shall be made by warrant drawn by the registrar. The distinctive registration numbers shall begin with a number one (1) or with a letter-number combination such as "A 1" or "AA 1," or any other similar combination of letters and numbers and be numbered consecutively for each series of plates. The distinctive registration number or letter-number combination assigned to the vehicle shall appear on the plate preceded by the number of the county and appearing in horizontal order on the same horizontal base line, and the county number shall be separated from the

Motor car plate specifications.

Fee 50c.

Deposit.

Disbursements.

HeinOnline -- 1971 vol. I 915 1971

distinctive registration number by a dash or a dot unless a letter-number combination is used. The dimensions of such numerals and letters shall be determined by the registrar of motor vehicles, provided that all county and registration numbers shall be of equal height.

Tax-exempt motor vehicle plates.

(3) For the use of tax-exempt motor vehicles, in addition to the markings herein provided, number plates shall have thereon the following distinctive markings:

"State owned."

Replacement.

Others.

"X."

"Exempt."

For vehicles owned by the state the registrar of motor vehicles may designate the prefix number for the various state departments, and all numbered plates issued to state departments shall bear the boards "State Owned" and no year number will be indicated thereon as these numbered plates will be of a permanent nature, and will be *replaced* by the registrar of motor vehicles at such time when the physical condition of numbered plates require same. For vehicles owned by the counties, municipalities and school districts and used and operated by officials and employees thereof in line of duty as such, and for vehicles on loan from the United States government or the state of Montana, to, or owned by, the civil air patrol and used and operated by officials and employees thereof in the line of duty as such, there shall be placed on the number plates assigned thereto, in such position thereon as the registrar may designate, the letter "X" or the word "EXEMPT." Distinctive registration numbers for plates assigned to motor vehicles of each of the counties in the state and those of the municipalities and school districts situated within each of said counties shall begin with number 1 and be numbered consecutively.

Trucks and trailers.

(4) On all number plates assigned to motor vehicles of the truck and trailer type, other than tax-exempt trucks and trailers, there shall appear the letter "T" or the word "TRUCK" for plates assigned to trucks and the letters "TR" or the word "TRAILER" for plates assigned to trailers, and housetrailers, *and the letters "MC" or the word "CYCLE" for plates assigned to vehicles of the motorcycle type.*

Transfer of plates.

Number plates issued to a passenger car, truck, trailer *or vehicle of the motorcycle type* may be transferred only to a replacement passenger car, truck, trailer *or motorcycle type vehicle.*

Counties assigned numbers.

(5) For the purpose of this act, the several counties of

HeinOnline -- 1971 vol. I 916 1971

the state shall be assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55; Lincoln, 56; any new counties shall be assigned numbers by the registrar of motor vehicles as they may be formed, beginning with the number "57."

Section 2. Section 53-118, R.C.M., 1947, is amended to read as follows: Amending clause.

"53-118. **(1759.4) Application for dealer's license.** Every person, firm, corporation, or association who, for commission or profit, engages in the business of buying, selling, exchanging or acting as a broker of new motor vehicles, used motor vehicles, trailers, (except trailers having an unladen weight of less than five hundred (500) pounds or semitrailers and qualifies under subparagraph (f) of this section, shall cause to be filed, by mail or otherwise, in the office of the registrar of motor vehicles, a verified application for licensing as a dealer on a blank to be furnished by the registrar of motor vehicles for that purpose, and containing the information therein required. The application and all of the information therein contained shall be verified by the Montana highway patrol. Each application must be accompanied by the license fee hereinafter named. Dealers license must be renewed and paid for annually, and an application for relicensing must be filed not later than January first of each year. To qualify for licensing and the issuance and use of "D," "UD," "DTR," *or "MCD"* plates, as hereinafter provided, the applicant must furnish the following information and qualify under the following provisions:

Application for dealer's license.

Filed with registrar.

Verification —highway patrol.

Annual renewal.

Qualifications.

(a) The name under which the business is conducted;

(b) Location of premises (street, address, city, county

HeinOnline -- 1971 vol. I 917 1971

and state) where records are kept, sales are made and stock of motor vehicles displayed;

(c) Name and address of all owners or persons having an interest in the business; provided, however, that in the case of a corporation, the names and addresses of the president and secretary thereof will be sufficient;

(d) Name and make of all vehicles handled, if factory franchised or selling under a written agreement with a manufacturer, importer or distributor;

(e) Whether or not used vehicles are handled exclusively;

Certificate.

(f) A certificate to the effect that the applicant is a bona fide dealer in motor vehicles, trailers or semitrailers; and that the applicant if a dealer in new motor vehicles, is recognized by a manufacturer, importer or distributor as a dealer in particular makes of new motor vehicles.

(g) Other information required by the registrar to efficiently administer this law.

Surety bond required—$5,000.

The applicant for a dealer's license shall also file with his application a good and sufficient bond in the sum of five thousand dollars ($5,000), and the bond shall be conditioned that the applicant shall conduct his business in accordance with the requirements of the law. All bonds shall run to the state of Montana and shall be approved by the registrar of motor vehicles and filed in his office and shall be renewed annually.

Permanent location.

The registrar of motor vehicles shall not register or license as a dealer any applicant for the sale of new motor vehicles at retail unless such applicant owns, leases or rents a permanent building wherein he shall conduct his business and who has a dealers' franchise from a manufacturer of motor vehicles. A private residence, tent, or temporary building is not a sufficient permanent place of business within the meaning of this section. The registrar of motor vehicles shall not register or license any applicant as a dealer in used cars unless such applicant furnishes sufficient evidence to the registrar that he has a building or lot to provide display of merchandise, a sign indicating the firm name and headquarters as the principal place of the business.

Building or lot.

Sign.

Fee $5.

Upon making such application, the applicant shall pay to the registrar of motor vehicles, in addition to the fees

HeinOnline -- 1971 vol. I 918 1971

required of dealers under the provisions of section 53-122, a fee of five dollars ($5). Upon receipt of the application, fee and bond, as provided above, the registrar of motor vehicles shall examine the application, and may, prior to issuing a license, make individual investigation of the truth of the statements contained in the application. If the registrar of motor vehicles is satisfied that the applicant qualifies for the issuance of a dealer's license under the provisions of this act, he may thereupon issue the same.

Registrar may investigate.

Issuance.

Every dealer licensed under this section shall keep a book or record of the purchase, sale or exchange or receipt for the purpose of sale, of any used vehicle, a description of such vehicles, together with the name and address of the seller, of the purchaser, and of the alleged owner or other person from whom such vehicle was purchased or received, or to whom it was sold or delivered, as the case may be. Such description in the case of motor vehicles shall also include the engine number, if any, the maker's number, if any, chassis number, if any, and such other numbers or identification marks as may be thereon, and shall include a statement that a number has been obliterated, defaced or changed, if such is the fact. In the case of a trailer or semitrailer, the record shall include the manufacturer's number and such other numbers or identification marks as may be thereon. He shall also have in his possession a duly assigned certificate of title from the owner of said motor vehicle in accordance with the provisions of another section of this act, from the time when the motor vehicle is delivered to him until it has been disposed of by him.

Required records.

Upon the licensing of a dealer as a new motor vehicle dealer, used motor vehicle dealer, trailer or semitrailer dealer, *or a dealer of the motorcycle type vehicle,* the registrar of motor vehicles shall assign to such dealer a distinctive serial license number as a dealer and furnish every qualified dealer in motor vehicles with not less than two (2) sets of number plates, and as many more as the fee the dealer pays entitles the dealer to, which number plates shall be similar to number plates furnished to owners of motor vehicles but shall bear thereon, in addition to the serial number assigned such dealer, the letter "D" if the dealer sells new motor vehicles (including trucks and trailers) or new and used motor vehicles (including trucks and trailers); the letters "UD" if the dealer sells used

Dealer plates—specifications.

HeinOnline -- 1971 vol. I 919 1971

motor vehicles (including trucks and trailers) only; the letters "DTR" if the dealer sells trailers and/or semitrailers (new or used) only; *and the letters "MCD" if the dealer sells vehicles of the motorcycle type.* Only new motor vehicles dealers' license plates bearing the letter "D" shall be assigned if both new and used motor vehicles (including trucks and trailers) are sold, and only one license fee shall be required of any one dealer. The registrar of motor vehicles shall cause to be placed on each set of license plates issued to a dealer, a serial number assigned to each dealer and the actual number of license plates issued to each dealer. The number of the dealer shall follow the prefix of the county, and the number of plates issued the dealer shall follow the prefix of the county and the number of the dealer, the dealer's number to be separated from the county prefix by a dash, and the number of plates issued to a dealer to be separated from the dealer's number by a dash, as follows: Dealer number 4 in Lewis and Clark County would be numbered 5-4, and if the dealer were issued three sets of plates, they would be numbered consecutively as follows, 5-4-1, 5-4-2, and 5-4-3. Dealers properly licensed under this section are authorized to use and display, dealer's license plates on any motor vehicle held for sale or used principally in the conduct of the dealer's business in selling or demonstrating motor vehicles. No dealer's license plate shall be used or displayed on vehicles normally used for hire, lease or rental or for purposes not incident to the business of a motor vehicle dealer. If it shall appear to the satisfaction of the registrar of motor vehicles, from information furnished to him by the sheriff or any other law enforcement officer, that any such dealer has been improperly licensed, has used the dealer's license in a manner other than the one permitted above, or is not qualified as a dealer under the requirements of this section, the registrar of motor vehicles may revoke such dealer's license. No person, firm, corporation or association shall, for commission or profit, engage in the business of buying, selling, exchanging or acting as a broker of new motor vehicles, trailers or semitrailers unless duly licensed in compliance with this section (except trailers having an unladen weight of less than five hundred (500) pounds).

Scope of license—display of plates.

Limitations on use.

Revocation for improper use.

License mandatory.

Penalties for violations.

Any person violating the provisions of this section shall be guilty of a misdemeanor and subject to a fine of not less than two hundred and fifty ($250) dollars and not

HeinOnline -- 1971 vol. I 920 1971

more than five hundred ($500) dollars. For the purposes hereof, every sale of a motor vehicle in violation of the provisions of this section shall be deemed a separate offense."

Section 3. Section 53-120, R.C.M., 1947, is amended to read as follows: Amending clause.

"53-120. **(1759.6) Replacing number plates.** In the event of loss, mutilation, or destruction of number plates, *and/or validation devices,* the owner of the registered motor vehicle may obtain from the registrar of motor vehicles, duplicates thereof upon filing sworn declaration showing such fact and payment of a fee of two dollars ($2.00). In the event of loss, mutilation, or destruction of Pioneer plates, duplicates may be obtained in the same manner upon payment of a fee of five dollars ($5.00)." Replacement plates—fees.

Section 4. Section 53-122, R.C.M., 1947, is amended to read as follows: Amending clause

"53-122. **(1760) Registration fees of motor vehicles — registration and transfer thereof — public owned vehicles exempt from license or registration fees — license or registration fees for trailers, house trailers, semitrailers and tractors providing for disposition of all fees.** Registration or license fees shall be paid upon registration or reregistration of motor vehicles, trailers, house trailers, semitrailers and dealers in motor vehicles or trailers in accordance with this act, as follows: Registration and license fees.

All dealers in motor vehicles, a fee of thirty dollars ($30.00); which shall entitle such dealer to two (2) sets of number plates, and five dollars ($5.00) additional fee for each additional set of number plates up to six (6) sets, and two dollars ($2.00) additional fee for each additional set of number plates, as may be applied for;

Dealers in motorcycles, trailers including house trailers, *thirty dollars ($30);*

Motor vehicles, weighing twenty-eight hundred and fifty (2850) pounds, or under, other than motor trucks, five dollars ($5.00);

Motor vehicles, weighing over twenty-eight hundred and fifty (2850) pounds, other than motor trucks, ten dollars ($10.00);

Electrically driven passenger vehicles, ten dollars ($10.00);

HeinOnline -- 1971 vol. I 921 1971

All motorcycles, two dollars ($2.00);

Tractors and/or trucks, ten dollars ($10.00);

Buses shall be classed as motor trucks and licensed accordingly;

Trailers and semitrailers less than two thousand five hundred (2,500) pounds maximum gross loaded weight and house trailers of all weights, two dollars ($2.00);

Trailers and semitrailers over two thousand five hundred (2,500) up to six thousand (6,000) pounds maximum gross loaded weight, except house trailers, five dollars ($5.00);

Trailers and semitrailers over six thousand (6,000) pounds maximum gross loaded weight, ten dollars ($10.00);

Trailers used exclusively in the transportation of logs in the forest or in the transportation of oil and gas well machinery, road machinery and bridge material exclusively, new and secondhand, and trailers used exclusively for the transportation of road machinery and bridge materials, shall pay a fee of fifteen dollars ($15.00) annually, regardless of size or capacity.

All rates to be twenty-five per cent (25%) higher for motor vehicles, trailers and semitrailers, when not equipped with pneumatic tires.

Bicycles with motor attachment, one dollar ($1.00);

Tractors, as specified in this section, shall mean any motor vehicle, except passenger cars used for towing a trailer or semitrailer.

If any dealer, or motor vehicle, house trailer, trailer, or semitrailer is originally registered six (6) months after the time of registration as set by law, the registration or license fee for the remainder of such year shall be one-half (½) of the regular fee above given.

A dealer in motor vehicles or trailers who shall maintain more than one (1) place of business or who shall maintain any branch establishment or establishments, must register and pay a registration or license fee for each such place of business or establishment.

Transfer of dealer's certificate of registration to purchaser of business.

A registered dealer, who may sell or dispose of his entire business to any other person, may have his certificate of registration transferred to such purchaser upon filing

HeinOnline -- 1971 vol. I 922 1971

with the registrar of motor vehicles a statement containing the name of the registered dealer, the number under which such dealer is registered, the name of the purchaser, and the location of the place of business so sold. Upon the filing of such statement, accompanied by a filing fee of two dollars ($2.00), the registrar of motor vehicles shall note upon the registration record of such dealer the change of ownership. But no certificate of registration can be transferred unless the entire business of the dealer holding such certificate of registration be sold and disposed of, and no such certificate of registration can be transferred to any person other than the purchasers of such business.

Fee $2.

Limitations.

The provisions of this act with respect to the payment of registration fees shall not apply to or be binding upon motor vehicles, trailers or semitrailers or tractors owned or controlled by the United States of America or any state, county or city, but in all other respects the provisions of this act shall be applicable to and binding upon motor vehicles, tractors, trailers, and semitrailers.

Exempt vehicles.

All fees, other than license fees, unless otherwise specifically provided, shall hereafter be deposited in, and paid into, the earmarked revenue fund and shall be used to pay all salaries, operating expenses, and all other expenses of the department of the registrar of motor vehicles, including the manufacturer and delivery of license plates. Any reference in this code to the motor vehicle recording fund or the motor vehicle administration fund shall be taken to mean the motor vehicle recording account in the earmarked revenue fund."

Deposit of monies.

Approved March 9, 1971

CHAPTER NO. 227

An Act to Amend Section 72-118, R.C.M., 1947, Relating to Power of the Board of Railroad Commissioners to Change, Alter or Amend Classifications, Rates and Rules for Transportation by Railroad; Providing Methods for Changing Such Classifications, Rates and Rules and for Investigation by the Board of Railroad Commissioners; Repealing All Acts or Parts of Acts in Conflict Herewith and Providing that the Act Shall Be Effective on Passage and Approval.

HeinOnline -- 1971 vol. I 923 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 72-118, R.C.M., 1947, is amended to read as follows:

"72-118. **Power to alter classification or rate**—*approval of changes or revisions by the board*—**hearing complaint.** The said board shall have the power from time to time to change, alter, amend, or abolish any classification or rate established by it when deemed necessary, *as hereinafter provided.* The said board shall make and establish reasonable rates for the transportation of *freight within the state of Montana,* and shall prescribe rates, tolls and charges for all other service performed by any railroad subject hereto. *No change or revision of any rate, charge, classification or rule of service contained in any tariff, classification or rule of a railroad shall be made by any railroad without first obtaining approval therefor from the board. Such changes or revisions shall be made by either of the methods hereinafter set forth:*

Powers of board of railroad commissioners.

Freight rate making.

Prior approval of board required.

Application for revision.

(1) *by filing an application with the board describing the nature and extent of the change, alteration or cancellation of the rate, classification, rule or regulation sought and the board shall thereafter give not less than ten (10) days notice, in the manner determined by the board as most likely to give notice to the persons to be effected, of the time and place of public hearing to be held on the application by the board at which time and place the public generally, or any person, firm, or corporation shall have an opportunity to present such facts, information or statistics as shall be pertinent to the hearing then being held; or*

Notice.

Public hearing.

Statement of proposed changes.

(2) *by filing with the board the tariff sheet or sheets containing such changes or revisions, plainly stating the change or changes, or revision or revisions, to be made; provided further, that the public shall be provided with such notice of the proposed changes or revisions as the board shall, by rule, require. The tariff sheet or sheets containing such changes or revisions shall be deemed approved and effective thirty (30) days after the same are filed unless the proposed revisions or changes are suspended or disallowed by the board prior to the expiration of the thirty (30) day period; provided, however, that the board may, for good cause, allow any change or revision to become effective on less than thirty (30) days after the filing thereof.*

Notice.

Approval 30 days after filing.

Exception.

HeinOnline -- 1971 vol. I 924 1971

Upon its own initiative, or upon the complaint of any interested party filed with the board within fifteen (15) days after the date upon which a change or revision of any rate, fare, change or classification is filed with the board, the board may suspend the operation of such rate, fare, charge, or classification for a period not to exceed one hundred and twenty (120) days, provided, however, that the order directing such suspension must be issued by the board not less than two (2) business days prior to the proposed effective date; and provided further, that the rail carrier or carriers filing such rate, fare, charge, or classification shall be given prompt notice by the board of any complaint filed by any interested party to any proposed tariff change or revision and such carrier or carriers also shall be given an opportunity to reply to any such complaint. If the proposed change or revision is in a tariff issued by a tariff publishing bureau for a rail carrier or carriers, notice to such bureau of any complaint will constitute notice to the participating carriers in such tariff. When the suspension of any proposed change or revision in a tariff is ordered by the board, it shall also order a public hearing to consider the reasonableness of the proposed change or revision; due notice shall be given for such hearing to all known interests or affected persons and the same shall be allowed to appear and present evidence. After considering the evidence presented at such hearing, the board shall issue an order approving, denying, or modifying the proposed change or revision; provided, however, that unless such hearing is held and such order is issued within one hundred and twenty (120) days from the date upon which the suspension was ordered, the proposed change or revision shall be deemed approved and effective as filed.

Board may suspend operation of revision for 120 days.

Conditions.

Notice to carrier.

Notice to tariff publishing bureau.

Public hearing.

Notice.

Board shall issue order within 180 days.

The board may, on its own motion or on the complaint by a shipper or other person interested investigate any rate, classification or rule approved and in effect for transportation of freight by any railroad within the state of Montana. The said board must, within forty (40) days *after the commencement of an investigation on the board's initiative, or* after the filing with such board of a complaint by a shipper, or other person interested, proceed to investigate and determine the justness and reasonableness of any classification, rate, charge, toll, regulation or order made by said board."

Board may investigate rates.

Determination within 40 days.

HeinOnline -- 1971 vol. I 925 1971

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act is effective after its passage and approval.

Approved March 9, 1971

CHAPTER NO. 228

An Act Amending Section 54-133, R.C.M., 1947, to Change the Penalty for Possession of Marihuana.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 54-133, R.C.M., 1947, is amended to read as follows:

"54-133. **Criminal possession of dangerous drugs.**

Criminal possession of drugs defined.

(a) A person commits the offense of criminal possession of dangerous drugs if he possesses any dangerous drug as defined in this act and does not come within the exceptions of section 3 [54-131].

Penalty—drugs other than marihuana.

(b) A person convicted of criminal possession of dangerous drugs, *other than criminal possession of marihuana and its derivatives as hereinafter provided,* shall be imprisoned by imprisonment in the state prison not to exceed five (5) years. *Any person convicted of a criminal possession of marihuana or its derivatives in an amount, the aggregate weight of which does not exceed sixty (60) grams of marihuana, or one (1) gram of hashish, shall, for the first offense, be guilty of a misdemeanor and is punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one (1) year, or by both such fine and imprisonment. A person convicted of a second, or subsequent, offense under this subsection is punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one (1) year or in the state prison not to exceed three (3) years or by both such fine and imprisonment.*

Panalty—first offense—possession of marihuana.

Misdemeanor.

Person under 21—presumption.

(c) A person of the age of twenty-one (21) years or under, convicted of a first violation under this section

HeinOnline -- 1971 vol. I 926 1971

shall be presumed to be entitled to a deferred imposition of sentence. Jurisdiction under this section shall be exclusively in the district court."

Deferred imposition of sentence.

Section 2. This act shall be effective upon passage and approval.

Effective immediately.

Approved March 9, 1971

CHAPTER NO. 229

An Act to Amend Section 11-1001, R.C.M., 1947, Relating to Authorization of Cities and Towns to Furnish Sewage Services in Addition to Water to Industries and to Persons Without City Limits; Rates; Penalty for Violations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-1001, R.C.M., 1947, is amended to read as follows:

Amending clause.

"11-1001. **Authorization of cities and towns to furnish water** *and sewage service* **to industries and to persons without city limits—rates—penalty for violations.**

(1) The city or town council of any city or town within the state of Montana, that owns and operates a municipal water system *and/or a municipal sewage system,* to furnish water *and/or sewage services* to the inhabitants of such city or town, as a public utility, shall, in addition to all other powers, have power to furnish water from such water system *and sewage services from such sewage system,* to any person, factory or other industry, located within the corporate limits of such city or town, or to any person, factory or other industry located outside the corporate limits of such city or town, at reasonable rates filed by the city or town council and approved by the public service commission [provided that delivery of water *and delivery of sewage services* by any such city or town] to or for the use of any person, factory or other industry located outside the corporate limits of such city or town shall be made within, or at the boundary line of the corporate limits of such city or town, or from any existing water line *or sewer line* of such city or town located outside of the corporate limits of such city or town, except as hereinafter provided.

City or town operating water and/or sewage systems.

Authority to serve outside corporate limits.

Rates approved by public service commission.

Limitations.

HeinOnline -- 1971 vol. I 927 1971

Power to serve when required by law.

(2) The city council of any city within the state of Montana that owns and operates a municipal water system *and/or a municipal sewer system* to furnish water *and sewer services* to the inhabitants of such city, as a public utility, shall, in addition to all other powers, have power to furnish water from such water system *and sewage services from such sewer system* to the inhabitants or to any person, factory, industry or producer of farm or other products located outside of the corporate limits of such city, at reasonable rates filed by the city or town council and approved, *when otherwise required by statute,* by the public service commission and such city council is further empowered to make collections for furnishing water *and sewer services* in the same manner as collections are made within the corporate limits.

Penalties for unlawful use of services.

(3) Any person, firm or corporation residing either inside or outside of the corporate limits of a city owning a municipal water system *and/or a municipal sewer system* which furnishes water *or sewer services* as a public utility, who shall willfully turn on the water *or sewer line* after the same shall have been shut off by or under the direction of the said city for nonpayment of water charges *or sewer charges,* or who shall unlawfully take water from such water system or *shall unlawfully make use of such sewer system* shall be guilty of a misdemeanor.

Consent to annexation.

(4) *Any person, firm or corporation receiving water or sewer service outside of incorporated city limits may be required by the city or town as a condition to initiate such service to consent to annexation of the tract of property served by the city or town. The consent to annexation is limited to that tract or parcel or portion of tract or parcel or portion of tract or parcel that is clearly and immediately and not potentially being serviced by the said water or sewer service."*

Approved March 9, 1971

CHAPTER NO. 230

An Act Creating a Division of Communications in the Department of Administration; Providing for the Appointment of an Administrator for the Division; Providing for the Powers and Duties of the Division;

HeinOnline -- 1971 vol. I 928 1971

Providing for the Implementation of this Act; Providing that This Act Shall Not Affect the Rights and Privileges of Employees Transferred to the Division.

Be it enacted by the Legislative Assembly of the State of Montana:

Division of communications created—appointment of administrator.

Section 1. There is created the division of communications in the department of administration. The state controller shall appoint an administrator for the division of communications, subject to the approval of the governor, and subject to the rules and regulations governing all state employees. The administrator for communications may employ and fix the compensation of such additional personnel as may be necessary.

Qualifications.

Section 2. The administrator over the division of communications shall have technical training in the field or possess a bachelor's degree from an accredited college or university and shall have four years of progressively responsible experience in the field of communications or its equivalent.

Powers and duties.

Section 3. The division of communications is hereby authorized and directed:

Services to state agencies.

(1) To provide communication services to all agencies of state government. The state communications system shall be capable of passing voice, video, data, written information and other forms of communication to and from distant points. The division of communications shall prescribe adequate rules and regulations for the use of any communications equipment and facilities now in use or hereafter made available.

Rules and regulations.

Supervision.

(2) To exercise general supervision over all existing communications systems for all agencies of state government.

Additional installations.

(3) To plan, review and approve any additional installations of communications equipment and systems for all agencies of state government. In approving the installation of additional communications equipment or systems, the division shall first consult with and consider the recommendations and advice of the executive heads of the various state agencies.

Standards.

(4) To approve standards and procedures for selection, acquisition and operation of communication equipment.

HeinOnline -- 1971 vol. I 929 1971

Maintenance.

(5) To insure that all communications equipment is properly maintained. The division is authorized to contract the equipment maintenance if it is in the state's best interest. The division shall maintain cost records and bill agencies for services rendered.

Assistance.

(6) To provide assistance to the legislature, governor and state agencies relative to state and interstate communication matters.

Means for utilization.

(7) To provide a means whereby political subdivisions of the state may utilize the state communications system, upon such terms and under such conditions as the division may establish.

Federal funds and gifts.

(8) To accept federal funds granted by congress or by executive order for all or any purposes of this act, as well as gifts and donations from individuals and private organizations or foundations.

Educational programs.

(9) To accept and provide for the technical transmission of programs provided by the division of educational television.

Advisory council.

Section 4. The director of the department, with the concurrence of the governor, shall create an advisory council on communications. The council shall include persons having expertise in the fields of voice, digital data, video transmission, mobile communication, and other means of communications as needed.

Transfer of funds and equipment.

Section 5. In order to provide for the orderly implementation of this act and to provide an economical, efficient, and effective system of communications for the state, the department of administration may order such transfer of appropriated funds, custody and control of equipment and facilities, and employees to the division of communications as may be necessary to carry out the purposes of this act.

Employees rights.

Section 6. The provisions of this act shall in no manner affect the rights or privileges of any employee transferred to the division of communications under the public employees retirement system, the group insurance plan, or personnel system.

Factors for determinations.

Section 7. It is incumbent on the director to base all decisions pertinent to Montana's state communication services on the factors of cost, quality of service, availability of service and ability to maintain the system.

HeinOnline -- 1971 vol. I 930 1971

Right to other sources.

Section 8. This act shall not be construed so as to prohibit or limit a state agency from availing itself of connection to and cooperation with other state and federal agencies for the purpose of communications and information gathering and distributing services.

Exemptions—law enforcement.

Section 9. The provisions of this act shall not apply to the law enforcement communications system, or its successor at law, except as to the provisions dealing with the purchase, maintenance and allocation of communication facilities; however, the law enforcement communications committee, or its successor at law, shall cooperate with the division of communications to coordinate the communications networks of the state.

Approved March 9, 1971

CHAPTER NO. 231

An Act Amending Section 75-8601 of the Higher Education Laws Recodification of the Forty-Second Session Laws of Montana. To Propose the Stimulation of Enrollment in Mineral Engineering; to Provide for the Waiving of Nonresident Tuition in Excess of Two Percent of Unit Enrollment for Out-of-State Students who Enroll in Mineral Engineering Curricula at Montana College of Mineral Science and Technology Under Reciprocal Agreement Among Mineral Engineering Colleges of Eight Wiche States for the Urgent Development of Undergraduate Programs in Mineral Engineering.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-8601, R.C.M., 1947, is amended to read as follows:

Free tuition for resident students.

"75-8601. **Charges for tuition — waiver of nonresident fees.** (1) Except in the law and medicine departments and for extra studies, tuition shall ever be free to all students who shall have been residents of the state for not less than one (1) year next preceding their admission to any unit of the Montana *university system.*

Regents may prescribe tuition rates.

(2) The regents may:

(a) prescribe tuition rates for students enrolled in

HeinOnline -- 1971 vol. I 931 1971

the law school or for extra studies, and for nonresident students; and

Waiver.

(b) waive at its discretion, nonresident tuition for selected and approved nonresident students not to exceed at any unit two percent (2%) of the total number of students enrolled at that unit; *except that when necessary such tuition may be waived in excess of two percent (2%) of unit enrollment for nonresident students who enroll at Montana college of mineral science and technology under provisions of the WICHE sponsored eight (8) state reciprocal agreement for mineral engineering education.*

Resident priority.

(3) No nonresident student may be admitted to the exclusion of any resident student."

Approved March 9, 1971

CHAPTER NO. 232

An Act to Create a Capitol Building and Planning Committee, Establishing Functions and Guidelines Under the General Supervision of this Legislative Council; and Providing an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Committee created.

Section 1. There is hereby created a committee to be composed of seven (7) members: two (2) members of the house of representatives, appointed by the speaker on a bipartisan basis; two (2) members of the senate, appointed by the committee on committees on a bipartisan basis; the state controller; the chairman of the city-county planning board for the city of Helena and county of Lewis and Clark, and the secretary of state. A chairman shall be selected by the members at the first meeting which shall be on or about July 9, 1971. Subsequent meetings may be called by the chairman at his direction.

Meetings.

Function—creation of master plan for capitol buildings.

Section 2. Function of the committee will be to establish a master plan for the orderly development of future state buildings in the state capitol area of the city of Helena, Montana. In evolving the master plan the committee shall take into consideration the following factors:

Factors.

Needs of state.

(a) The needs of the state relative to the location and design of buildings to be constructed, purchase of

HeinOnline -- 1971 vol. I 932 1971

land, parking facilities, traffic management and landscaping, including placement of statues, monuments, fountains or exterior lighting of buildings as may be deemed desirable for the beautification of the area.

City of Helena—county of Lewis and Clark.

(b) The ordinances, plans, requirements and proposed improvements of the city of Helena and the county of Lewis and Clark, including but not limited to zoning regulations, population trends and plans for rapid transit development.

Other factors.

(c) Any other factors which bear upon the orderly, integrated and cooperative development of the state, the city of Helena and the county of Lewis and Clark, of property in the area of the state capitol.

Report to succeeding legislature.

Section 3. The committee shall prepare a written report of its activities and recommendations and present the report to the succeeding legislature, under the general supervision of the legislative council.

$20 per day.

Mileage.

Section 4. Legislative members are entitled to twenty dollars ($20) a day and mileage for days actually engaged in the work of the committee.

Effective immediately.

Section 5. This act shall become effective on passage and approval.

Approved March 9, 1971

CHAPTER NO. 233

An Act Amending Sections 47-202, 47-204, 47-205, 47-211, 47-214, 47-215 and 47-216, R.C.M. 1947, Being Sections of the Montana Consumer Loan Act, Providing for a Supplementary License Permitting Additional Lending Authority Involving Loans in Excess of One Thousand Dollars ($1,000) but Not Exceeding Two Thousand Five Hundred Dollars ($2,500), Fixing the Charges for and Other Provisions Concerning Such Loans in Excess of One Thousand Dollars ($1,000) and Relating to Insurance Which May Be Provided and Increasing Examination Charges of the Commissioner.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 47-202, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 933 1971

Definitions.

"47-202. **Definitions.** Unless otherwise clearly indicated by the context, the following words when used in this act, for the purposes of this act, shall have the meanings respectively ascribed to them in this section:

"Person."

(a) "Person" shall mean individuals, partnerships, associations, corporations and any and all legal entities in the loaning business.

"License."

(b) "License" shall mean *one or both of* the licenses provided for by this act.

"Licensee."

(c) "Licensee" shall mean the person holding any such license.

"Commissioner."

(d) "Commissioner" shall mean the consumer loan commissioner.

"Consumer type loan business."

(e) "Consumer type loan business" shall mean the business of making loans of *two thousand five hundred dollars ($2,500)* or less generally repayable in substantially equal installments."

Amending clause.

Section 2. Section 47-204, R.C.M. 1947, is amended to read as follows:

"47-204. **Scope — exemptions — invalidity of contracts in violation.** (a) Scope; prohibiting engaging in the business of making loans of *two thousand five hundred dollars ($2,500)* or less, except after having obtained a

Scope—loans—$2,500 or less.

license; exemptions. On or after July 1, 1959, no person shall engage in the business of making loans or advances of money on credit in amounts of *two thousand five hundred dollars ($2,500)* or less and contract for, charge, or receive directly or indirectly on or in connection with any such loan or advance, any charges whether for interest, compensation, consideration, or expense which in the aggregate are greater than ten percent (10%) per annum,

Exemptions.

except as provided in and authorized by this act. A person doing business under the authority of this state or the United States relating to banks, trust companies, savings or building and loan associations, credit unions, Morris Plan companies, or a person engaged in business as a licensed pawnbroker, or any person who shall extend credit in connection with the sale of a commodity shall not become a licensee under this act, nor shall any of the provisions of this act apply to any such exempted person.

Evasions.

(b) Evasions. The provisions of subsection (a) shall

HeinOnline -- 1971 vol. I 934 1971

apply to any person who seeks to evade its applications by any device, subterfuge or pretense whatsoever.

(c) Invalidity; penalty. Any contract of loan in the making or collection of which any act shall have been done which violates subsection (a) of this section shall be void and the lender shall have no right to collect, receive or retain any principal, interest, or charges whatsoever.'' Contracts void.

Section 3. Section 47-205, R.C.M. 1947, is amended to read as follows: Amending clause.

"47-205. *When* **loans in excess of one thousand dollars ($1,000) by licensee prohibited**—*supplementary license to make loans not exceeding two thousand five hundred dollars ($2,500).* No licensee under the provisions of this act shall lend money in a total sum greater than one thousand dollars ($1,000) to any borrower *or to any borrower and spouse except under the following circumstances and for the following charges: When any person holding a license provided for in section 47-206 desires to make loans for any amount in excess of one thousand dollars ($1,000) but not exceeding two thousand five hundred dollars ($2,500) the holder of such license provided for in section 47-206 may apply to the commissioner for a supplementary license and pay therefor an additional license fee of seventy-five dollars ($75) per calendar year or one-half (1/2) of said sum for any period less than six (6) months. The commissioner shall grant, on application, a supplementary license to a holder of a license provided for in section 47-206. Section 47-209 shall be applicable as to time of payment of supplementary license fee and penalty for failure to pay the same. The holder of a supplementary license may contract for and receive charges at rates authorized for licensees in section 47-210 for the first one thousand dollars ($1,000) of the principal amount of any loan and may contract for and receive charges at rates not in excess of ten dollars ($10) per year per one hundred dollars ($100) on that part of the principal amount of any loan exceeding one thousand dollars ($1,000) but not exceeding two thousand five hundred dollars ($2,500). Said charges shall be computed at the applicable rates on the full, original principal amount of the loan from the date of the loan to the due date of the final scheduled installment irrespective of the fact that the loan is payable in installments. Said charges shall be added to the principal of the loan and shall not be discounted or deducted therefrom nor*

Supplementary license required to make loans in excess of $1,000.

Additional license fee—$75.

License holder.

Failure to pay—penalty.

Scope of supplementary license.

Computation of charges.

Prohibitions.

HeinOnline -- 1971 vol. I 935 1971

paid or received at the time the loan is made. For the purpose of computing charges for a fraction of a month, a day shall be considered one-thirtieth (1/30) of a month.

Provisions applicable.

Provisions of section 47-210 relating to refunds, fees and charges and the other provisions of this act not inconsistent with this section shall be applicable to loans made under authority of a supplementary license."

Amending clause.

Section 4. Section 47-211, R.C.M. 1947, is amended to read as follows:

"47-211. **Installment payment — contract period.** No licensee shall enter into any contract of loan of three hundred dollars ($300) or less, exclusive of charges, under this act which the borrower agrees to make any scheduled repayment of principal more than twenty-one (21) calendar months from the date of making such contract, nor any contract *of* loan for more than three hundred dollars ($300) *to and including one thousand dollars ($1,000)* exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than twenty-five (25) calendar months from the date of making, *nor any contract of loan for more than one thousand dollars ($1,000) to and including two thousand dollars ($2,000) exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than thirty-seven (37) calendar months from the date of making, nor any contract of loan for more than two thousand dollars ($2,000) to and including two thousand five hundred dollars ($2,500) exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than thirty-seven (37) calendar months from the date of making.* Every loan contract shall require payment of principal and charges in installments which shall be payable at approximately equal periodic intervals except that payment dates may be omitted to accommodate borrowers with seasonal incomes. No installment contracted for shall be substantially larger than any preceding installment. When a loan contract provides for monthly installments, the first installment may be payable at any time within forty-five (45) days of the date of the loan and the charges for the number of days in excess of thirty (30) from the date of making may be added to the scheduled amount of said installments."

Prohibited loans.

$300 or less—more than 21 months repayment schedule.

$300-$1,000—more than 25 months repayment schedule.

$1,000-$2,000—more than 37 months repayment schedule.

$2,000-$2,500—more than 37 months repayment schedule.

Loan contract requirements.

First installment within 45 days.

Amending clause.

Section 5. Section 47-214, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. I 936 1971

"47-214. **Insurance written with loans — types and limitation thereon — delivery of insurance policy.** (a) No insurance of any kind shall be written by a licensee, or employee, affiliate or associate of the licensee in connection with any loan except as hereinafter provided. Loan insurance.

(b) Insurance permitted under the provisions of this section shall be obtained through an insurance company authorized to conduct such business in Montana by a duly licensed agent or agency of this state. Premiums shall not exceed those fixed by law or current applicable manual rates. Insurance written, as authorized by this section, may contain a mortgagee clause or other appropriate provisions to protect the insurable interest of the licensee. Must be detained through authorized insurer.

(c) Property insurance. When the principal amount of the loan exceeds three hundred dollars ($300) exclusive of the portion thereof attributable to insurance premiums and charges, the licensee may require a borrower to insure property offered as security against any substantial risk of loss, damage or destruction for an amount not to exceed the reasonable value of the property insured or the amount of the loan, whichever is smaller, and for the customary term approximating the term of the loan contract. It shall be optional with the borrower to obtain such insurance in an amount greater than the amount of the loan or for a longer term. Limitations on licensee's requirement of property insurance.

(d) Credit life insurance *and credit disability insurance.* Subject to the laws of this state, credit life insurance *and credit disability insurance* may be provided at the expense of the borrower and may be *provided* by a licensee upon the request of the borrower when the principal amount of the loan exceeds three hundred dollars ($300) exclusive of the portion thereof attributable to insurance premiums and charges. If any loan shall include amounts advanced for insurance premiums and charges such loan shall not in any event exceed *two thousand five hundred dollars ($2,500).* Borrower may request credit life and credit disability insurance. Loans in excess of $300. Loan limitation— $2,500.

(e) The insurance authorized by this section may be sold, obtained or provided by or through a licensee and the premium or identifiable charge for the insurance may be included in the principal amount of the loan; provided, however, that no licensee shall require a borrower to purchase such insurance from such licensee or from any particular agent, broker or insurance company as a condition precedent for the obtaining of a loan. Any gain or ad- Source of insurance. Condition precedent prohibited.

HeinOnline -- 1971 vol. I 937 1971

vantage to the licensee or any employee, affiliate or associate of the licensee from the sale, provision or obtaining of insurance as authorized by this section shall not be deemed to be additional charges or a violation of this act.

Limitation.

A licensee shall not require insurance under this section until any existing insurance of the same type has expired or has been canceled and the unearned portion of the premium for the canceled insurance has been rebated to the borrower."

Amending clause.

Section 6. Section 47-215, R.C.M. 1947, is amended to read as follows:

Commissioner may investigate.

"47-215. **Investigations, when — who may be investigated.** The commissioner or his duly authorized representatives may at any time investigate any transaction with borrowers and may examine the books, accounts and records in this state to discover violations of this act by (1) any licensee (2) any person who advertises for, solicits or holds himself as willing to make loans in amounts of *two thousand five hundred dollars ($2,500)* or less, or (3) any person whom the commissioner has reason to believe is violating or is about to violate the provisions of this act."

Amending clause.

Section 7. Section 47-216, R.C.M. 1947, is amended to read as follows:

Annual examination of licensee's books.

"47-216. **Annual examinations — cost of examinations — limitations.** The commissioner shall make an annual examination of the books, accounts and records of every licensee insofar as they relate to transactions with borrowers under this act and may make such additional examinations as the commissioner deems necessary. The

Expenses charged to licensee.

expenses of the commissioner incurred in the examination of the books and records of the licensees, shall be charged at the rate of *one hundred dollars ($100)* per man *per day* required to *conduct the examinations* of the respective licensees. Each licensee shall be billed by the commissioner

Penalties—failure to pay.

for the amount so charged to such licensee. If said charge is not paid within thirty (30) days after the mailing of such bill, the license of said licensee may be suspended or revoked."

Approved March 9, 1971

HeinOnline -- 1971 vol. I 938 1971

CHAPTER NO. 234

An Act Relating to the Maximum Rate of Interest on Bonds Issued and Special Assessments Levied and Other Evidence of Indebtedness by Political Subdivisions and Providing an Effective Date, and Amending Sections 11-2304, 11-2404, 16-2011, 75-7107, 75-7115, 75-7116, 75-7119, 75-7121, 11-2315, 16-2032, 11-982, 11-1307, 11-2218, 11-2214.2, 11-2226, 11-2227, 11-2231, 11-2249, 11-2277, 11-3717, 11-3910, 16-1620, 16-2002, 16-2046, 16-2604, 16-4517, 32-3121, 32-3123, 32-3502, 32-3805, 81-1003, 89-1701, 89-1705, 89-1801, 89-2348, 89-2501, 35-115, 47-124, 89-2502 and 89-3426, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. The following terms as used in this act have the following meanings: (1) "Bonds" include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, special assessments, income or property of a political subdivision, including all instruments or obligations payable from a special fund.

"Bonds."

(2) "Political subdivision" includes a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other governmental subdivision of the state of Montana, but shall not include the state of Montana, the state board of examiners, the state water conservation board, the state highway commission or any other board, agency, or commission of the state of Montana.

"Political subdivision."

(3) "Governing body" means the board, council, commission or other body charged with the general control of the issuance of bonds of a political subdivision.

"Governing body."

Bond interest rates.

Section 2. Bonds of a political subdivision shall bear interest at such rate or rates as its governing body shall determine, except that no such rate shall exceed seven percent (7%) except revenue bonds issued under the terms of sections 11-2401 through 11-2414, sections 11-2217 through 11-2221, and sections 11-4101 through 11-4110, R.C.M. 1947, which rate shall not exceed nine percent (9%).

HeinOnline -- 1971 vol. I 939 1971

Special assessment interest rates.

Section 3. All special assessments levied by a political subdivision shall bear interest at such rate or rates as its governing body shall determine, except that no such rate shall exceed the greater of seven percent (7%) per annum or, in the event that the special assessments are appropriated for the payment of principal and interest on bonds issued by the political subdivision, the rate of interest on said bonds.

Amending clause.

Section 4. Section 11-2304, R.C.M., 1947, is amended to read as follows:

Limitations on terms of bonds.

"11-2304. **Terms of bonds—rates of interest.** No bonds for any purpose shall be issued for a longer term than twenty (20) years, and when bonds are issued for the purpose of refunding bonds theretofore issued and outstanding, such bonds shall not be issued for a longer term than ten (10) years, provided that if the unexpired term of the bonds to be refunded shall be more than ten (10) years, then in such event, the refunding bonds may be issued for such unexpired term. All bonds issued for a longer term than five (5) years may be redeemable at the option of the city or town five (5) years from the date of issue and on any interest payment date thereafter, and it shall be so recited in the bonds. The maximum rate of interest which any bonds may bear shall be *seven* percent *(7%)* per annum and shall be payable semiannually."

Maximum interest 7%.

Amending clause.

Section 5. Section 11-2404, R.C.M., 1947, is amended to read as follows:

Municipal undertakings authorized.

"11-2404. **Authorization of undertaking — form and contents of bonds.** The acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking may be authorized under this chapter, and bonds may be authorized to be issued under this chapter by resolution or resolutions of the governing body of the municipality, when authorized by a majority of the *qualified electors* voting upon such question at a special election noticed and conducted as provided in sections 11-2308 to 11-2310, inclusive, and said special election shall be held not later than the next municipal election held after the council or governing body of the municipality has by resolution or resolutions approved the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking as in this

Resolution.

Majority vote.

Special election.

Time for holding.

HeinOnline -- 1971 vol. I 940 1971

chapter provided and ordered said special election; provided, that the issuance of refunding revenue bonds may be authorized by resolution or resolutions of the governing body of the municipality without an election.

Exception—refunding bonds may issue without election.

Said bonds shall bear interest at such rate or rates not exceeding *nine* percent *(9%)* per annum, payable semi-annually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty (40) years from their respective dates, may be payable in such place or places, may carry such registration privileges, may be subject to such terms or redemption, may be executed in such manner, may contain such terms, convenants and conditions, and may be in such form, either coupon or registered, as such resolution or subsequent resolutions may provide. Said bonds shall be sold at not less than par. Said bonds may be sold at private sale to the United States of America or any agency, instrumentality or corporation thereof. Unless sold to the United States of America or agency, instrumentality or corporation thereof, said bonds shall be sold at public sale after notice of such sale published once at least five (5) days prior to such sale in a newspaper circulating in the municipality and in a financial newspaper published in the city of New York, New York, or the city of Chicago, Illinois, or the city of San Francisco, California, except that, in the event the bond issue is in an amount of less than one hundred fifty thousand dollars ($150,000), the bond issue shall be advertised at least five (5) days prior to such sale in daily newspapers circulating in Montana cities of 10,000 population or over, in lieu of advertising in a financial newspaper in New York, Chicago, or San Francisco, and also in a newspaper as specified in section 16-1201 if that newspaper is different from the daily newspapers circulating in Montana cities of 10,000 population or over. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the governing body may determine may be issued to the purchaser or purchasers of bonds sold pursuant to this chapter. Said bonds and interim receipts or certificates shall be fully negotiable, as provided by the Uniform Commercial Code—Investment Securities.''

Maximum interest 9%.

Terms of bonds.

Private sale.

Public sale—publication of notice.

Bond issue less than $150,000.

Interim receipts or certificates.

Negotiability.

Section 6. Section 16-2011, R.C.M., 1947, is amended to read as follows:

Amending clause.

HeinOnline -- 1971 vol. I 941 1971

Maximum terms.

"16-2011. **Term of bonds—power to redeem—maximum interest.** No bonds issued for any of the purposes designated in subdivisions (a), (b), (c), of section 16-2008, shall be for a longer term than twenty (20) years; no bonds issued for any of the purposes designated in subdivisions (d), or (e), of section 16-2008, shall be for a longer term than ten (10) years.

20 years.

10 years.

The following limitations as to term shall apply to all bonds issued under subdivision (f) of section 16-2008; No bonds shall be issued for a longer term than ten (10) years, provided, that if the unexpired term of the bonds to be refunded shall be more than ten (10) years then, in such event, the refunding bonds may be issued for such unexpired term; or if such ten (10) year term will require an annual tax levy for payment of such refunding bonds exceeding ten (10) mills on all property subject to taxation in the county, then, in such event, the term may be so extended as to reduce the required annual levy to ten (10) mills, provided, however, that the term shall not under any circumstances exceed twenty (20) years.

10 years.

Exception refunding bonds.

Levy exceeding 10 mills.

Maximum 20 years.

No bonds issued for any of the purposes designated in subdivision (g) of section 16-2008 shall be for a longer term than five (5) years.

5 years.

Bonds issued for any of the purposes designated in subdivisions (h) and (i) of section 16-2008 shall not be for a longer term than will be required to repay the bonds with interest through a tax levy of ten (10) mills on all the property within the county subject to taxation and the term shall not exceed (20) years. The length of the term required shall be estimated and calculated by the board of county commissioners based upon the percentage of valuation of the property upon which taxes are levied and paid within such county as ascertained from the last completed assessment for state and county taxes taking into account probable changes in the taxable valuation and losses in tax collections, provided, however, that irrespective of any miscalculation by the county commissioners in fixing the term of the bonds the county must from year to year make a sufficient tax levy to pay the interest and installments on principal on the bonds as the same fall due.

10 mill levy.

Maximum 20 years.

Estimate by county commissioners.

County must make sufficient levy.

Optional 5 year redemption.

All bonds issued for a longer term than five (5) years shall be redeemable at the option of the county five (5)

HeinOnline -- 1971 vol. I 942 1971

years from the date of issue and on any payment due date thereafter before maturity and shall be so stated on the face of the bonds. The maximum rate of interest which any of such bonds may bear shall be *seven* percent *(7%)* per annum and shall be payable semiannually.

Maximum interest 7%.

Section 7. Section 75-7107, R.C.M., 1947, is amended to read as follows:

Amending clause.

"75-7107. **Limitation of term and interest on bonds, and timing for redemption of bonds.** School district bonds shall not be issued for a term longer *than* twenty (20) years except that bonds issued to refund or redeem outstanding bonds shall not be issued for a term longer than ten (10) years unless the unexpired term of the bonds to be refunded or redeemed is in excess of ten (10) years in which case the refunding or redeeming bonds may be issued for such unexpired term. All bonds issued for a longer term than five (5) years shall be redeemable at the option of the school district five (5) years from the date of issue and on any interest payment due date thereafter before maturity and shall be so stated on the face of the bonds. The interest shall not exceed *seven* percent *(7%)* per annum and shall be payable semiannually."

School district bonds maximum 20 years.

Exception—redemption bonds.

Optional 5 year redemption.

Maximum interest 7%.

Section 8. Section 11-2315, R.C.M., 1947, is amended to read as follows:

Amending clause.

"11-2315. **Sale of bonds.** The city or town council shall meet at the time and place fixed in the notice to consider bids for the bonds. The bonds shall be sold at not less than par and accrued interest to date of delivery, and each bidder shall specify the form of bonds to be issued, whether amortization or serial, and the rate of interest at which he will purchase the bonds. A bid for amortization bonds shall have the preference over a bid for serial bonds, all other things being equal; and in determining the kind of bonds to be issued the council shall take into consideration not only the rate of interest demanded on each kind but also all other known elements affecting the interests of the city or town, and the council shall accept the bid they shall judge most advantageous to the city or town. No attorneys fees, brokerage or other fees or commissions of any kind shall be paid to any person or corporatin for assisting in the proceedings, or in the preparation of the bonds, or in negotiating the sale thereof. The board is authorized to reject any

Council meeting.

Sale of bonds.

Bid requirements.

Preference.

Considerations.

Payment of fees or commissions prohibited.

Council may reject bids.

HeinOnline -- 1971 vol. I 943 1971

Private sale.

and all bids and to sell the bonds at private sale if they deem it for the best interests of the city or town, provided, however, that such bonds shall not be sold at less than par and accrued interest to date of delivery."

Amending clause.

Section 9. Section 16-2032, R.C.M., 1947, is amended to read as follows:

Board meeting.
Sale of bonds.
Bid requirements.
Preference.
Considerations.
Payment of fees or commissions prohibited.
Board may reject bids.
Private sale.

"16-2032. **Sale of bonds.** The board of county commissioners shall meet at the time and place fixed in the notice to consider bids for the bonds. The bonds shall be sold at not less than par and accrued interest to date of delivery, and each bidder shall specify the form of bonds to be issued, whether amortization or serial, and the rate of interest at which he will purchase the bonds. A bid for amortization bonds shall have the preference over a bid for serial bonds, all other things being equal, and in determining the kind of bonds to be issued the board shall take into consideration not only the rate of interest demanded on each kind, but also all other known elements affecting the interests of the county, and for the board shall accept the bid which they shall judge most advantageous to the county. No attorney fees, brokerage or other fees, or commission of any kind shall be paid to any person or corporation for assisting in the proceedings, or in the preparation of the bonds, or in negotiating the sale thereof. The board is authorized to reject any or all bids and to sell the bonds at private sale if they deem it for the best interests of the county; provided, however, that such bonds shall not be sold at less than par and accrued interest to date of delivery."

Amending clause.

Section 10. Section 75-7121, R.C.M., 1947, is amended to read as follows:

Trustees meeting.
Sale of bonds.
Bid requirements.
Preference.
Considerations.

"75-7121. **Sale of school district bonds.** The trustees shall meet at the time and place fixed in the notice to consider bids on the bond issue. The bonds shall be sold at not less than par and accrued interest and each bidder shall specify the form of bonds to be issued, whether amortization or serial, and the rate of interest at which he will purchase the bonds. A bid for amortization bonds shall have the preference over a bid for serial bonds, all other things being equal; and in considering bids on these classes of bonds, the trustees shall take into consideration not only the rate of interest demanded on each kind, but also every other known element affecting the total

HeinOnline -- 1971 vol. I 944 1971

cost of the bonds to the district when paid in full. The trustees shall accept the bid which they shall judge most advantageous to the school district. No attorney fees, brokerage or other fees, or commissions of any kind shall be paid to any person or corporation for assisting in the proceedings or in the preparation of the bonds, or in negotiating the sale. The trustees are authorized to reject any or all bids and to sell the bonds at private sale if they deem it for the best interests of the school district except that such bonds shall not be sold at less than par and accrued interest."

Payment of fees or commissions prohibited.

Trustees may reject bids—private sale.

Section 11. Section 11-982, R.C.M., 1947, is amended to read as follows:

Amending clause.

"11-982. **Creation of special improvement districts—assessments—expenses payable in warrants—interest on warrants.** The city or town council has power: To create special improvement districts, designating the same by number; to extend the time for payment of assessments levied upon such districts for the improvements thereon for a period not exceeding twenty *(20)* years; to make such assessments payable in installments, and to pay all expenses of whatever character incurred in making such improvements with special improvement warrants."

City or town council—authority to create special improvement districts—assessments.

Section 12. Section 11-1307, R.C.M., 1947, is amended to read as follows:

Amending clause.

"11-1307. **City warrants—rate of interest.** When any warrant, drawn upon the treasurer of a city or town, pursuant to any ordinance or resolution or direction of the council of such city or town, is presented to the city or town treasurer for payment, and the same is not paid for want of funds, such treasurer must endorse thereon "Not paid for want of funds," annexing the date of presentation, and sign his name thereto; and from that time until such warrant is called for payment the warrant shall bear interest at a rate fixed by ordinance."

City or town warrants.

Presentation.

Endorsement.

"Not paid for want of funds."

Section 13. Section 11-2218, R.C.M., 1947, is amended to read as follows:

Amending clause.

"11-2218. **May issue revenue bonds—sinking fund—refunding revenue bonds.** (1) Any such municipality may issue and sell negotiable revenue bonds for the construction of any such water or sewer system or combined water and sewer system when authorized so to do by a

Municipality may sell negotiable revenue bonds for water and/or sewer systems.

HeinOnline -- 1971 vol. I 945 1971

majority vote of the qualified electors voting on the question at an election called by the city council or other governing body of the municipality for that purpose, and noticed and conducted in accordance with the provisions of sections 11-2308 to 11-2310, inclusive; and all bonds shall mature within forty (40) years from date of bonds, and may be registered as to ownership of principal only with the treasurer of said municipality, if so directed by the governing body. No bonds shall be sold for less than par, and each of said bonds shall state plainly on its face that it is payable only from a sinking fund, naming said fund and the ordinance and resolution creating it, and that it does not create an indebtedness within the meaning of any charter, statutory or constitutional limitation upon the incurring of indebtedness.

Election.

Notice.

Term within 40 years. Registration.

Payable from sinking fund.

(2) Prior to the issuance of said bonds the city council or other governing body of such municipality shall adopt an ordinance or resolution authorizing the issuance and sale of said bonds, and must create a sinking fund for the payment of the bonds and the interest thereon and charges of the fiscal agency for making payment of the bonds and interest thereon.

Ordinance or resolution.

Sinking fund created.

(3) At or before the issuance and sale of any such bonds, the governing body shall, by resolution or ordinance, set aside to such sinking fund and pledge to the payment of the bonds and the interest thereon the net income and revenues of the system, including all additions thereto and replacements and improvements thereof subsequently constructed or acquired, up to an amount sufficient to provide for the payment of the principal and the interest on the bonds as such principal and interest shall become due and payable, and to accumulate and maintain reserves securing such payments in such amount as shall be deemed by the governing body to be necessary and expedient.

Revenues set aside for repayment of bonds.

Reserves.

(4) The said net income and revenues above-mentioned shall be construed to mean all the gross income from said system less normal, reasonable and current expenses of operation and maintenance thereof.

Net income and revenues defined.

(5) Said payments above-mentioned shall constitute a first and prior charge and lien on the entire net income and revenues derived from the operation of said system, provided that the governing body shall have power from

Priorities and liens.

HeinOnline -- 1971 vol. I 946 1971

time to time to establish the relative priority of the liens of successive issues of bonds upon said net income and revenues, subject to any restrictions contained in the ordinances or resolutions authorizing bonds of prior issues.

Refunding bonds may issue without election.

(6) Any such municipality, by ordinance or resolution adopted by its governing body, and without an election, may issue and sell negotiable revenue bonds in the manner provided in this section, to refund bonds previously issued for any of the foregoing purposes, whether issued under authority of this section or any other applicable law. Refunding bonds may, with the consent of the holders of the bonds to be refunded thereby, be exchanged at par plus accrued interest for all or part of such bonds, or may be sold at a price not less than par plus accrued interest, but nothing herein shall require the holder of any outstanding bond to accept payment thereof or the delivery of a refunding bond in exchange therefor, except in accordance with the terms of such outstanding bond. Bonds may be issued to refund interest as well as principal actually due and payable if the revenues pledged therefor are not sufficient, but not to refund any principal or interest due which can be paid from revenues then on hand.

Exchange.

Sale.

Refunding bonds may refund interest.

Municipality may issue additional bonds to finance improvements—water and/or sewer systems.

(7) Any municipality having issued bonds payable from net revenues of its water and sewer system or combined water and sewer systems, whether under authority of this section of otherwise, may issue additional bonds after authorization by the qualified electors in the manner hereinabove provided, to finance the reconstruction and improvement of such system and the construction of additions thereto, and may provide that such additional bonds shall be payable from said net revenues on a parity with the outstanding bonds of such previous issues, subject to any restrictions upon such issuance which may be imposed by the resolutions or ordinances authorizing said outstanding bonds; or the governing body may provide for the issuance of refunding bonds, without an election, to retire such outstanding bonds and may, if desired combine such refunding issue with the issue authorized by the electors for reconstruction, improvements and additions, or may include the amount required for such refunding in the amount of such additional issue when submitted to the electors.

Provision for parity payment.

Refunding bonds may retire outstanding bonds.

HeinOnline -- 1971 vol. I 947 1971

Interest rates.

(8) Refunding bonds may bear interest at a rate lower or higher than the bonds refunded thereby, if they are issued to refund matured principal or interest for the payment of which revenues on hand are not sufficient, or if the refunding bonds are combined with an issue of new bonds for reconstruction, improvements and additions and the lien of such new bonds upon the revenues of the system or systems must be junior and subordinate to the lien of the outstanding bonds refunded, under the terms of the ordinances or resolutions authorizing the outstanding bonds, as applied to circumstances existing on the date of refunding. Except as authorized in the preceding sentence, refunding bonds shall not be issued unless their average annual interest rate, computed to their stated maturity dates and excluding any premium from such computation, is at least three-eighths of one percent (⅜ of 1%) less than the average annual interest rate on the bonds refunded thereby, computed to their respective stated maturity dates.

Priority of liens.

Minimum interest rates—⅜ of 1%.

Deposit of proceeds.

(9) In any case where refunding bonds are issued and sold six (6) months or more before the earliest date on which all bonds refunded thereby mature or are prepayable in accordance with their terms, the proceeds of the refunding bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, which is a member of the federal reserve system and has a combined capital and surplus not less than one million dollars ($1,000,000), and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each bond refunded to its maturity or if it is prepayable, to the earliest prior date upon which such bond may be called for redemption, and to pay and redeem the principal amount of each such bond at maturity, or, if prepayable, at its earliest redemption date, and any premium required for redemption on such date; and the resolution or ordinance authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all income therefrom, and shall provide for the call of all prepayable bonds in accordance with their terms. The securities to be purchased with the escrow fund shall be limited to general obligations of the United States, securities whose

Escrow.

Investment.

Required appropriation.

Limitations on security investments.

HeinOnline -- 1971 vol. I 948 1971

principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the refunding bonds.

Purchase.

(10) Revenues and other funds on hand, in excess of amounts pledged by ordinances and resolutions authorizing outstanding bonds for the payment of principal and interest currently due thereon and reserves securing such payment, may be used to pay the expenses incurred by the municipality for the purpose of such refunding, including but without limitation the cost of advertising and printing refunding bonds, legal and financial advice and assistance in connection therewith, and the reasonable and customary charges of escrow agents and paying agents. Revenues and other funds on hand, including reserves pledged for the payment and security of outstanding revenue bonds, may be deposited in an escrow fund created for the retirement of such bonds and may be invested and disbursed as provided in subsection (9) hereof, to the extent consistent with the ordinances or resolutions authorizing such outstanding bonds."

Use of excess revenues.

Deposit in escrow—investment.

Section 14. Section 11-2214.2, R.C.M., 1947, is amended to read as follows:

Amending clause.

"11-2214.2. **Assessments and bonds for pedestrian malls or off-street parking.** (a) After expiration of the prescribed time from the date of the warrant, and after the treasurer has recorded the return, he shall make and certify to the clerk a complete list of all assessments unpaid, which amount to twenty-five dollars ($25) or over, upon any assessment.

Duty to certify list of unpaid assessments.

(b) If any person before certification of the list to the clerk presents to the treasurer his affidavit that he is the owner of a lot in the list, accompanied by the certificate of a searcher of records that the person is the owner of record, and notifies the treasurer in writing that he desires no bond to be issued for the assessment upon the lot, then the assessment shall not be included in the list, and shall remain collectible as provided by this article. Omission to file the notice shall bar any defense against the bonds except the defense that the governing body did not have authority to issue the bonds.

Owner's affidavit.

Notice to treasurer—alternative to bond issue.

HeinOnline -- 1971 vol. I 949 1971

Resolution by governing body.

Issue of improvement bonds —requirements.

Equal payments.

Denominations.

Place payable.

(c) The clerk shall present the list to the governing body at its next meeting, and the body shall thereupon, by resolution, direct improvement bonds to be issued to the contractor for the amount of the assessments remaining unpaid, prescribing the number and denomination of the bonds, and the times when payable, which shall be so fixed that an approximately equal amount of the total sum shall be paid each year until the whole amount is paid, not exceeding twenty-five (25) years and three (3) months from the date of the bonds, but any fractional amounts may be added to the amount due in any year, so that the amounts due in all other years shall be in equal multiples of one hundred dollars ($100) each. Except for a bond to represent any odd amount due in any year, the denominations of the bonds shall be fixed at one hundred dollars ($100) or some multiple thereof, not exceeding one thousand dollars ($1,000). The resolution shall also fix the place, if any, other than the office of the treasurer, at which the bonds and the interest thereon shall be payable.

Date of issue.

Semiannual interest coupons.

(d) The bonds shall be issued as of the date of the warrant, and shall bear interest from such date at the rate specified in the resolution of intention. They shall have semiannual interest coupons attached, the first of which shall be payable on January 1 or July 1, as the case may be, occurring ninety (90) days after the date of the bond, and shall be for the interest accrued at that time.

Due date January 1.

(e) The due date of all bonds shall be January 1 in the years in which they respectively become due."

Amending clause.

Section 15. Section 11-2226, R.C.M., 1947, is amended to read as follows:

"11-2226. **Construction of sidewalks, curbs and gutters without formation of special improvement district.** The city council may order sidewalks, curbs and gutters, or any combination thereof, constructed in front of any lot or parcel of land without the formation of a special improvement district, and whenever the council shall order any such sidewalk, curb and gutter, or any combination thereof, constructed, such order shall be entered upon the minutes of the council and shall name the street along which said sidewalk, curb and gutter, or any combination thereof, is to be constructed. After the making of such order, written notice thereof shall be given the

City council may order construction —sidewalks, curbs and gutters.

Notice to owner.

HeinOnline -- 1971 vol. I 950 1971

owner or agent of such property, in such manner as the council may direct. If the owner or agent of such lot or parcel of land shall fail or neglect for a period of thirty *(30)* days after the date of service of such notice to cause such sidewalk, curb and gutter, or any combination thereof, to be constructed, the city may construct or cause such sidewalk, curb and gutter, or any combination thereof, to be constructed, and shall assess the cost thereof, including engineering costs and the costs enumerated in section 11-2228 of this code, against the property in front of which the same is constructed.

Failure to construct.

City may construct.

Assessment against property.

When any such sidewalk, curb and gutter, or any combination thereof, is constructed by or under direction of the city council, payment for the construction thereof shall be made by special warrants in such form as may be prescribed by ordinance drawn against a fund to be known as special sidewalk, curb and gutter fund, and the council may provide for the payment of said interest annually.

Payment by special warrants.

Special fund.

The payment of assessments to defray the cost of construction of said sidewalks, curbs and gutters, or any combination thereof, may be spread over a term of not to exceed eight *(8)* years, payment to be made in equal annual installments.

Payment term—maximum 8 years.

The city council shall annually, and before the first Monday of October of each year, pass and adopt a resolution levying an assessment and tax against each lot or parcel of land in front of which sidewalks, curbs and gutters, or any combination thereof, have been constructed under orders of the city council. Said resolution levying such assessment shall be in every manner prepared and certified the same as resolutions levying assessments for the making of improvements in special improvement districts."

Annual assessment.

Resolution.

Section 16. Section 11-2227, R.C.M., 1947, is amended to read as follows:

Amending clause.

"11-2227. **Interest on assessments.** Upon all special assessments and taxes, levied and assessed in accordance with any of the provisions of this act, simple interest shall be charged, and the treasurer, in collecting such special assessment taxes, if the same are payable in one *(1)* installment, shall collect such interest as may be shown to be due thereon by the resolution levying such

Simple interest on assessments.

Collection.

HeinOnline -- 1971 vol. I 951 1971

assessment; and if such assessment be payable in installments the treasurer shall, at the time of collecting the first installment, collect such interest as may be shown to be due on such assessment by the resolution levying such assessment, and thereafter he shall collect with each subsequent installment interest on the whole amount remaining unpaid."

Amending clause.

Section 17. Section 11-2231, R.C.M., 1947, is amended to read as follows:

Costs and expenses.

"11-2231. **Form of bonds and warrants.** All costs and expenses incurred in the construction of any improvements specified in this act, in any improvement district, shall be paid for by special improvement district bonds or warrants. Such bonds or warrants shall be drawn in substantially the following form:

Form of bonds or warrants.

District No. .....
United States of America,
State of Montana

Warrant or Dollars
(Bond No. .....) $.....

Interest at the rate of ..... percent per annum, payable annually. Special improvement district coupon warrant or bond

....., Montana

Issued by the city of ....., Montana.

The treasurer of the city of ....., Montana, will pay to bearer, the sum of ..... dollars as authorized by resolution NO..... as passed on the .....day of ....., 19....., creating special improvement district No. ..... for the construction of the improvements and the work performed as authorized by said resolution to be done in said district, and all laws, resolutions, and ordinances relating thereto, in payment of the contract in accordance therewith. The principal and interest of this warrant (or bond) are payable at the office of the city treasurer of ....., Montana.

This warrant (or bond) bears interest at the rate of .....percent per annum from the day of registration of this warrant (or bond), as expressed herein, until the date called for redemption by the city treasurer. The interest on this warrant (or bond) is payable annually on the first day of ..... in each year, unless paid previous thereto, and as expressed by the interest coupons

HeinOnline -- 1971 vol. I 952 1971

hereto attached, which bear the engraved facsimile signature of the mayor and city clerk.

This warrant (or bond) is payable from the collection of a special tax or assessment which is a lien against the real estate within said improvement district, as described in said resolution hereinbefore referred to.

This warrant (or bond) is redeemable at the option of the city at any time there are funds to the credit of said special improvement district fund for the redemption thereof, and in the manner provided for the redemption of the same.

It is hereby certified and recited, that all things required to be done, precedent to the issuance of this warrant (or bond), have been properly done, happened and been performed, in the manner prescribed by the laws of the state of Montana and the resolutions and ordinances of the city of ....., Montana relating to the issuance thereof.

(seal)

Dated at ....., Montana, this ..... day of ....., 19.....
City of ....., Montana.

By: ....., Mayor

....., City Clerk

Registered at the office of the city treasurer of ...., Montana, this ..... day of ....., 19.....

..... City Treasurer.

Other requirements.

And the same shall be drawn against the special improvement district fund created for the district, and shall bear interest from the date of registration until called for redemption or paid in full, interest to be payable annually on the first day of January of each year, unless the council prescribes another date. Such warrants (or bonds) shall bear the signatures of the mayor and clerk, and shall bear the corporate seal of the city. They shall be registered in the office of the clerk and treasurer, and if interest coupons be attached thereto, they shall also be so registered and shall bear the signatures of the mayor and clerk. Said bonds shall be in denominations of

Signatures.
Seal.
Registration.
Denominations.

HeinOnline -- 1971 vol. I 953 1971

one hundred ($100) dollars or fractions or multiples thereof, and may be issued in installments, and may extend over a period not to exceed twenty (20) years. Such warrants (or bonds) shall be redeemed by the treasurer when there are funds in the special improvement district fund against which said warrants (or bonds), on presentation of the coupons belonging thereto, and any funds remaining shall be applied to the payment of the principal and the redemption of the warrants (or bonds) in the order of their registration; and provided, further that whenever there are any funds in any special improvement district fund, after paying the interest on such warrants (or bonds) drawn against said fund, the treasurer shall call in for payment outstanding warrants (or bonds), which, together with the interest thereon to the date of redemption, will equal the amount of said fund on that date, which date shall be fixed by the treasurer, who shall give notice by publication once in a newspaper published in the city, or at the option of the treasurer, by written notice to the holder or holders of such warrants (or bonds) if their address be known, of the number of warrants (or bonds) and the date on which payment will be made, which date shall not be less than ten (10) days after the date of publication or of service of notice, and on which date so fixed, interest shall cease."

Maximum term 20 years.

Redemption.

Call for warrants or bonds.

Publication of notice.

Notice to holder.

After 10 days interest ceases.

Amending clause.

Section 18. Section 11-2249, R.C.M., 1947, is amended to read as follows:

Special improvement lighting district bonds or warrants.

Fund.

Denominations.

Redemption.

Maximum term 8 years.

"11-2249. **Bonds and warrants—interest—redemption.** All cost and expenses incurred in the construction of the improvement specified in this act shall be paid for by special improvement lighting district bonds or warrants, in such form as may be prescribed by ordinance drawn against a fund to be known as "Special Improvement Lighting District No. ..... Fund." Said warrants or bonds shall be in the denomination of one hundred dollars ($100) or fractions or multiples thereof; and may be issued in installments. Such warrants or bonds shall be redeemed by the treasurer when there is money in the fund against which said warrants or bonds are issued available therefor, and may extend over a period not to exceed eight *(8)* years, and shall bear interest from the date of registration thereof, until called for redemption or paid in full, interest to be payable annually on the

HeinOnline -- 1971 vol. I 954 1971

first day of January of each year as expressed by the interest coupon attached thereto, which may bear the engraved facsimile signature of the mayor and city clerk. The requirements of this section shall apply to all special improvement lighting districts, including those now in the process of formation or to be formed hereafter."

Amending clause.

Section 19. Section 11-2277, R.C.M., 1947, is amended to read as follows:

Issue by resolution.

"11-2277. **Determination of provisions of bonds—maturity—interest—form.** Whenever the council has been authorized to issue bonds hereunder, the council may by resolution determine to issue such bonds and provide for the guaranty thereof by the supplemental revolving fund. Such resolution shall fix the amount, maturity, and interest rate and provide for the sale of bonds in such manner as the council shall determine. The governing body of the municipality in determining the cost of said improvement may include estimated costs of the issuance of said bonds, all engineering, inspection, fiscal and legal expenses, cost of the parking meters, and interest which it is estimated will accrue during the construction period and for six (6) months thereafter on money borrowed or which it is estimated will be borrowed for the special improvements for which bonds are issued. The bonds may mature at one time, not exceeding the maximum maturity of the assessments to be levied for said improvement or may mature in installments at various times during the term of said assessments, but in no event shall such bonds mature beyond ten (10) years from date thereof. Said bonds, as the council shall determine, shall be subject to redemption prior to maturity if so determined by the council, and may be payable at any suitable bank or trust company either within or without the state of Montana. The resolution providing for the issuance of bonds may also contain such reasonable covenants for the protection of the holders thereof as the council may determine. The bonds issued hereunder shall be in substantially the form provided in section 11-2231 as modified by the provisions hereof."

Supplemental revolving fund.

Determination of cost of improvement.

Maturity.

Maximum 10 years.

Redemption prior to maturity.

Covenants.

Form.

Amending clause.

Section 20. Section 11-3717, R.C.M., 1947, is amended to read as follows:

Interest.

"11-3717. **Interest on bonds — redemption.** Revenue bonds shall bear interest, payable annually or semiannu-

HeinOnline -- 1971 vol. I 955 1971

Limitations or restrictions.

Bonds may be callable.

Place for payment.

ally or in part annually and in part semiannually. Prior to the issuance of bonds the commission may fix limitations or restrictions on the payment of interest. Bonds may be callable upon such terms, conditions, and upon such notice as the commission may determine, and upon the payment of the premium fixed by the commission in the proceedings for the issuance of the bonds. No bond is subject to call or redemption prior to its fixed maturity date unless the right to exercise such call is expressly stated on the face of the bond. The commission may provide for the payment of the principal and interest of bonds at any place within or without the state of Montana is specified coin or currency of the United States."

Amending clause.

Section 21. Section 11-3910, R.C.M., 1947, is amended to read as follows:

Municipality may issue bonds for urban renewal.

Refunding bonds.

Payable from revenue.

Security—loans and grants.

"11-3910. **Issuance of bonds.** (a) A municipality shall have the power to issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this act, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans for urban renewal projects, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall not pledge the general credit of the municipality and shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from, or held in connection with, its undertaking and carrying out of urban renewal projects under this act; provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source, in aid of any urban renewal projects of the municipality under this act.

Bonds subject to uniform commercial code.

Tax exemption.

(b) Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall be subject only to the provisions of the Uniform Commercial Code. Bonds issued under the provisions of this act are declared to be issued for an essential public and governmental purpose, and, together with interest thereon and income therefrom, shall be exempted from all taxes.

HeinOnline -- 1971 vol. I 956 1971

Resolution or ordinance—bond provisions.

(c) Bonds issued under this section shall be authorized by resolution or ordinance of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

Sale or exchange.

(d) Such bonds may be sold at not less than ninety-eight percent (98%) of par at public or private sale, or may be exchanged for other bonds on the basis of par: Provided, that such bonds may be sold to the federal government at private sale at not less than par and, in the event less than all of the authorized principal amount of such bonds is sold to the federal government, the balance may be sold at public or private sale at not less than ninety-eight percent (98%) of par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the federal government.

Private sale to federal government at par.

Balance at 98% of par.

Deposit in fund.

(e) The municipality may annually pay into a fund to be established for the benefit of such bonds any and all excess of the taxes received by it from the same property over and above the average of the annual taxes authorized without vote for a five-year period immediately preceding the acquisition of the property by the municipality for renewal purposes, such payment to continue until such time as all bonds payable from the fund are paid in full. Any other taxing unit in a municipality is authorized to allocate a like amount of such excess taxes to the municipality or municipalities in which it is situated.

Excess taxes.

5 year period.

Other taxing units.

Validity of signatures.

(f) In case any of the public officials of the municipality whose signatures appear on any bonds or coupons issued under this act shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwith-

Negotiability.

HeinOnline -- 1971 vol. I 957 1971

standing, any bonds issued pursuant to this act shall be fully negotiable.

Conclusive presumption.

(g) In any suit, action, or proceeding involving the validity or enforceability of any bond issued under this act or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with the provisions of this act."

Amending clause.

Section 22. Section 16-1620, R.C.M. 1947, is amended to read as follows:

Costs and expenses.

"16-1620. **Form and terms of district warrants and bonds — payment of contracts.** (1) All costs and expenses incurred in the construction or maintenance of any improvement specified in this act, in any improvement district shall be paid for by special improvement district bonds, or warrants. Such bonds or warrants shall be drawn in substantially the following form:

Forms of bonds and warrants.

District No. .....
United States of America
State of Montana

Warrant or (Bond No. .....) Dollars $.....

Interest at the rate of ..... percent per annum, payable annually.

Special Improvement District Coupon

Warrant or Bonds

....., Montana

Issued by the County of ....., Montana

The county treasurer of ..... County, Montana, will pay to ....., or bearer, the sum of ..... dollars, as authorized by Resolution No. ....., as passed on the ..... day of ....., 19....., creating or maintaining the Special Improvement District No. ....., for the construction (or maintenance) of the improvements and work performed as authorized in said resolution to be done in said district, and all laws, resolutions and ordinances relating thereto, in payment of the contract in accordance therewith. The principal and interest of this

HeinOnline -- 1971 vol. I 958 1971

warrant (or bond) are payable at the office of the county treasurer of ..... County, Montana.

This warrant (or bond) bears interest at the rate of ..... percent per annum from the date of the registration of this warrant (or bond), as expressed herein, until the date called for the redemption by the county treasurer. The interest on this warrant (or bond) is payable annually on the first day of ..... each year, unless paid previous thereto and as expressed by the interest coupons hereto attached, which bear the signatures of the chairman of the board of county commissioners and the county clerk.

This warrant (or bond) is payable from the collection of a special tax or assessment which is a lien against the real estate within said improvement districts, as described in said resolution hereinbefore referred to.

This warrant (or bond) is redeemable at the option of the county at any time there are funds to the credit of said special improvement district fund (construction and maintenance) for the redemption thereof, and in the manner provided for the redemption of the same.

It is hereby certified and recited, that all things required to be done precedent to the issuance of this warrant (or bond) have been properly done, happened and been performed in the manner prescribed by the laws of the state of Montana and the resolution and ordinances of the county of ....., Montana, relating to the issuance thereof.

Dated at ....., Montana, this ..... day of ....., 19....., County of ....., Montana.

(SEAL)

By ....., Chairman of the board of county commissioners.

(SEAL)

..... County Clerk

Registered at the office of the county treasurer of ....., County, Montana this ..... day of ....., 19.....

..... County Treasurer

HeinOnline -- 1971 vol. I 959 1971

Drawn against special improvement district fund.

(2) And the same shall be drawn against the special improvement district fund created for the district, that is, either the construction or maintenance fund as the case may be, and shall bear interest from the date of registration until called for redemption or paid in full,

Interest payable January 1.

interest to be payable annually on the first day of January of each year, unless the board of county com-

Signatures.

missioners prescribe another date. Such warrants (or bonds) shall bear the signatures of the chairman of the board of county commissioners and the county clerk,

Seal.

and shall bear the corporate seal of the county. They

Registration.

shall be registered in the office of the county clerk and the county treasurer, and, if interest coupons be attached thereto, they shall also be so registered, and shall bear the signatures of the chairman of the board of county commissioners and the county clerk, provided however, that said coupons may bear the facsimile signatures of said officers in the discretion of the board

Denominations.

of county commissioners. Said bonds shall be in denominations of one hundred dollars ($100) or fractions, or multiples thereof; and may be issued in installments,

Maximum 30 years —Federal loans— 40 years.

and may extend over a period of not to exceed thirty (30) years, except that if federal loans are available for improvements, repayment may extend over a period not to exceed forty (40) years.

Redemption.

(3) Such warrants (or bonds) shall be redeemed by the county treasurer when there are funds in the special improvement district fund against which said warrants (or bonds) are issued available therefor; provided that

Annual payment of interest.

the county treasurer shall first pay out of the proper special improvement district fund, annually, the interest on all outstanding warrants (or bonds) on presentation

Priority.

of the coupons belonging thereto, and any funds remaining in the proper fund shall be applied to the payment of the principal and the redemption of the warrants (or bonds) in order of their registration; provided, further that whenever there are any funds in any special improvement district fund, after paying the interest on such

Call for payment.

warrants (or bonds) drawn against said fund, the county treasurer shall call in for payment outstanding warrants (or bonds), which, together with the interest thereon to the date of redemption, will equal the amount of said fund on that date, which date shall be fixed by the county

Publication of notice.

treasurer, who shall give notice by publication once in a newspaper published in the city, or, at the option of

HeinOnline -- 1971 vol. I 960 1971

the county treasurer, by written notice to the holder or holders of such warrants (or bonds), if their address be known, of the number of warrants (or bonds), and the date on which payment will be made, which date shall not be less than ten *(10)* days after the date of publication or of service of notice, and on which date so fixed, interest shall cease.

Notice to holder.

After 10 days interest ceases.

(4) The board of county commissioners shall provide for making payments for maintenance or improvements in any rural improvement district by the following method:

Rural improvement district.

The board of county commissioners shall sell bonds or warrants issued under the provisions hereof, in an amount sufficient to pay that part of the total cost and expense of making the improvement which is to be assessed against the property within the district, to the highest and best bidder therefor for cash, for not less than the face value of such bonds, or warrants, and including interest thereon, and shall use the proceeds of such sale in making payment to the contractor, or contractors, and such payment may be made either, from time to time, on estimates made by the engineer in charge of such improvements for the county, or upon the entire completion of the improvements and the acceptance thereof by the board of county commissioners. The provisions of sections 11-2313, 11-2314 and 11-2315, which relate to the notice of sale, publication of notice and manner and method of selling bonds by cities and towns, insofar as the same are applicable thereto and not in conflict with the provisions of this section, shall apply to, govern and control the form of notice of sale, publication of notice and manner and method of selling such bonds or warrants.

Sale of bonds or warrants on bid.

Use of proceeds.

Notice, publication, sales.

Section 23. Section 16-2002, R.C.M. 1947, is amended to read as follows:

Amending clause.

"16-2002. **County registered warrants — interest.** All county warrants hereafter issued, after having been presented to the county treasurer for payment and by him endorsed "Not paid for want of funds in the treasury", from and after the date of such presentation and endorsement, shall draw interest at the rate *fixed by the county board in accordance with law.*"

County warrants draw interest after presentation.

HeinOnline -- 1971 vol. I 961 1971

Amending clause.

Section 24. Section 16-2046, R.C.M. 1947, is amended to read as follows:

"16-2046. **Exchange of bonds for amortization bonds.** Subject to the approval of the state board of land commissioners the board of county commissioners of any county is hereby vested with the power and authority to issue amortization bonds for the purpose of refunding any outstanding bonds of such county held by the state of Montana and which were not issued either as amortization or serial bonds, whether such bonds are due or not, and to exchange the same for such outstanding bonds. Such amortization bonds shall conform in all respects to the definition of amortization bonds as set forth in section 16-2012, and shall bear interest at such rate as may be agreed upon between the board of county commissioners and the state board of land commissioners. Such amortization bonds may be issued and exchanged for such outstanding bonds without submitting the question of issuing the same to an election, and it shall not be necessary to publish any notice of sale of such bonds. This section shall not be construed so as to deprive boards of county commissioners of the right to advertise, sell and issue refunding bonds in the manner provided by this act."

Approval.

Board may issue amortization bonds.

Exchange.

Requirements.

No election necessary.

Amending clause.

Section 25. Section 16-2604, R.C.M. 1947, is amended to read as follows:

"16-2604. **Registry of warrants — interest.** When any county warrant, any high school warrant or any school district warrant hereafter issued is presented to the treasurer for payment and the same is not paid for want of funds, the treasurer must endorse thereon, "not paid for want of funds", annexing the date of presentation, and sign his name thereto; and from that time until paid the warrant shall bear interest at *a rate fixed by the board of trustees in accordance with law.*"

Presentation for payment.

"Not paid for want of funds."

Interest bearing.

Amending clause.

Section 26. Section 16-4517, R.C.M. 1947, is amended to read as follows:

"16-4517. **Bonded indebtedness.** Whenever the board of directors deem it necessary for the district to incur a bonded indebtedness, it shall by a resolution so declare and state the purpose for which the proposed debt is to be incurred, the land within the district to be benefited

Bonded indebtedness.

Resolution.

HeinOnline -- 1971 vol. I 962 1971

thereby, the amount of debt to be incurred, the maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed forty (40) years, and the proposition to be submitted to the electors."

Maximum term 40 years.

Section 27. Section 32-3121, R.C.M. 1947, is amended to read as follows:

Amending clause.

"32-3121. **Installment payment procedure — county treasurer to collect.** (1) If the mode of payment is to be by installments, the board and the committee shall approve and certify the assessment roll.

Installment payments.

(2) The board and the assessor shall, at the time of levying the assessment, in their order setting the levy, declare that the sum charged against each parcel of land may be paid in equal annual installments with interest upon the whole sum at the rate *fixed by the board of county commissioners in accordance with law.* The order shall specify the number of installments which shall be equal to the number of years for which the bonds may run.

Declaration—assessment by installments.

(3) Each year thereafter, the treasurer shall collect one of the installments together with the interest due thereon and the interest due on the installments thereafter to become due.

Annual collection includes interest.

(4) Provisions concerning delinquency and the sale of land set forth with relation to the mode of immediate payment shall be likewise applicable to installment payments."

Delinquency and sale.

Section 28. Section 32-3123, R.C.M. 1947, is amended to read as follows:

Amending clause.

"32-3123. **Order for issuance of bonds — form and contents.** (1) The board shall make and enter an order authorizing and directing the issuance of bonds payable not more than ten *(10)* years after the date of issuance.

Order to issue bonds.

Maximum 10 years.

(2) Each bond shall provide that the holder shall not demand payment until it comes due. It shall bear interest, payable annually, and shall have interest coupons for each interest payment attached.

Payment.

Interest coupons.

(3) Each bond and coupon shall bear the date of issuance and be made payable to bearer. Each bond shall

Payable to bearer.

Signatures.

HeinOnline -- 1971 vol. I 963 1971

Seal. be signed by the chairman of the board and attested by the county clerk. The seal of the board shall be affixed to each bond.

Denominations. (4) Bonds shall be issued in denominations of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000).

Reference to district. (5) Each bond shall contain a reference to the district for which it is issued and to the order and record authorizing the issue. It shall state that it is payable only out of the local improvement funds, created by special assessment, and not otherwise.

Payable out of funds.

Designation. (6) On its face, each bond shall bear the designation of the district: "Local Improvement District No. ..... in ..... county, Montana."

Limited to costs. (7) No bond shall be issued in excess of the costs and expenses of the improvements and construction."

Amending clause. Section 29. Section 32-3502, R.C.M. 1947, is amended to read as follows:

"32-3502. **Toll bridge bonds — maturity — interest.** Toll bridge bonds. (1) Toll bridge bonds shall mature at such time or Maximum 20 years. times, not more than twenty (20) years from their date or dates, as may be fixed by the authority's resolution. Redemption. However, they may be made redeemable before maturity at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds.

Bond provisions. (2) The authority shall determine:

(a) The rate of interest such bonds shall bear.

(b) The time or times of payment of such interest.

(c) The form of the bonds and the interest coupons to be attached thereto.

(d) The manner of executing the bonds and coupons.

(e) The denomination or denominations of the bonds; and

(f) The place or places of payment of principal and interest, which may be at any bank or trust company.

Interim bonds. (3) Prior to the preparation of definitive bonds, the authority may issue temporary bonds with or without

HeinOnline -- 1971 vol. I 964 1971

coupons under the same restrictions as definitive bonds. Such bonds shall be exchangeable for definitive bonds when such bonds have been executed and are available for delivery."

Section 30. Section 32-3805, R.C.M. 1947, is amended to read as follows: Amending clause.

"32-3805. **Term — power to redeem — maximum interest.** (1) No bonds issued under subsection (1) of section 7-301 of this part (32-3801) shall be for a longer term than twenty (20) years. Maximum term 20 years.

(2) No bond issued under subsection (2) of that section shall be issued for a term longer than ten (10) years, except that: Maximum term 10 years. Exceptions.

(a) If the unexpired term of the bonds to be refunded is greater than ten (10) years, the refunding bonds may be issued for the unexpired term; or

(b) If the ten (10) year term requires an annual tax levy for payment of the refunding bonds which exceeds ten (10) mills on all property subject to taxation, the term may be so extended as to reduce the annual levy to ten (10) mills. In no event shall the term exceed twenty (20) years. 10 mills.

(3) All bonds issued for a term longer than five (5) years shall be redeemable at the option of the county five (5) years after the date of issue and on any payment due date thereafter before maturity. This statement shall appear on the face of each bond. 5 years.

(4) Interest shall be payable semiannually."

Section 31. Section 81-1003, R.C.M. 1947, is amended to read as follows: Amending clause.

"81-1003. **Conversion of other forms of bonds into amortization bonds.** All bonds in which such permanent funds of the state are now invested or in which they hereafter may be invested, whether such bonds are due or not, may be converted into amortization bonds payable through a period of not exceeding twenty (20) years upon resolution duly passed by the board or officers of the political subdivision of the state through which such bonds were originally issued, if the state board of land commissioners deems such change to amortization bonds to be safe and advantageous to the state and authorizes Conversion to amortization bonds authorized.

HeinOnline -- 1971 vol. I 965 1971

Interest.

such change. The interest on such converted bonds shall be such as the state board of land commissioners may fix and determine in each individual case but shall not be less than the rate of interest on the bonds to be converted."

Amending clause.

Section 32. Section 89-1701, R.C.M. 1947, is amended to read as follows:

Power to incur indebtedness limited.

"89-1701. **Limitations on debt-incurring power.** The board of commissioners or other officers of the district shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, except as provided in this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void, except that for the purpose of organization or for any of the immediate purposes of this act, or to make or purchase surveys, plans, and specifications, or for stream gauging and gathering data, or to make any repairs occasioned by any calamity or other unforeseen contingency, the board of commissioners may, in any one year, incur the indebtedness of as many dollars as there are acres in the district, and may cause warrants of the district to issue therefor."

Amending clause.

Section 33. Section 89-1705, R.C.M., 1947, is amended to read as follows:

Bonds payable in gold coin.

"89-1705. **Details relating to bonds.** (1) All bonds issued under the provisions of this act shall be payable in gold coin of the United States, of the standard weight and finances existing at the time of the issue; and shall

Maximum term 40 years.

run for a period not longer than forty *(40)* years from

Prior redemption.

their date, but may contain a clause providing for their prior redemption and payment, at the option of the board of commissioners of the district, on any interest payment date after five *(5)* years from their date. Instead of straight maturity bonds, bonds may be issued to ma-

Bonds may mature serially.

ture serially at such times and in such amounts as the board of commissioners shall determine, but no bonds so issued shall run for a longer period than forty *(40)*

Interest.

years from the date of issue. Said bonds shall bear interest from their date until paid, payable annually or semiannually, the installments of interest to date of ma-

Coupons.

turity of principal to be evidenced by appropriate cou-

Place of payment.

pons attached to each bond. Said bonds and interest coupons shall be payable at such place or places, within

HeinOnline -- 1971 vol. I 966 1971

or without the state of Montana, as the board of commissioners shall prescribe.

(2) Such bonds shall be of such denomination or denominations, and in such form, as the board of commissioners shall prescribe. An issue of bonds is hereby defined to be all the bonds issued in accordance with a resolution or order of the board of commissioners. Each issue of the bonds of a district shall be numbered consecutively as authorized, and the bonds of each issue shall be numbered consecutively. The board of commissioners shall fix the date of said bonds, or may divide any issue into two *(2)* or more divisions and fix different dates for the bonds of each respective division. The date of any bond must be subsequent to the order or resolution authorizing it and prior to its delivery to a purchaser from the district.

Denominations.

Issue of bonds defined.

Numbering.

Dates.

(3) All bonds issued hereunder shall be signed by the president and attested by the secretary of the board under the corporate seal of the district, and each of the interest coupons to be attached to said bonds shall be executed by the signatures of said president and secretary. Each bond shall be signed, and each interest coupon shall be executed, by the president and secretary of the board of commissioners who may be in office at the date of said bonds and coupons, or at any time thereafter prior to the delivery of said bond to the purchaser thereof from the district.

Signatures.

Seal.

(4) The board of commissioners may provide for the registration of bonds in their discretion. The secretary of the board of commissioners and county treasurer, each shall keep a record of the bonds sold, or otherwise disposed of, their date, number, amount, maturity, or maturities, to whom sold, rate of interest, and the place or places of payment thereof,"

Board may provide registration.

Records.

Section 34. Section 89-1801, R.C.M., 1947, is amended to read as follows:

Amending clause.

"89-1801. **Tax or assessment to pay bonds and interest.** (1) All bonds and the interest thereon issued hereunder, and all payments due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States

Payment of bonds and interest to the United States.

HeinOnline -- 1971 vol. I 967 1971

Revenue from special tax or assessment.

as in section 89-1301 provided, shall be paid by revenue derived from a special tax or assessment levied as hereinafter provided upon all the lands included in the district, except upon such lands as have been included in such district on account of the exchange or substitution of water under the provisions of section 89-1611, if any there be; and all the lands in the district at the time said bonds are issued, and all lands subsequently included which are so chargeable under the provisions of this act, shall be and remain liable to be taxed and assessed for the payment of said bonds and interest, and all payments due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as in section 89-1301 provided.

Lands remain liable.

Duties of board.

(2) It shall be the duty of the board of commissioners of the district, in the order or resolution authorizing and directing the issuance of bonds of the district, mentioned in section 89-1703, to provide for the annual levy and collection of a special tax or assessment upon all the lands included in the district and subject to taxation and assessment as aforesaid, sufficient in amount to meet the interest on said bonds promptly when and as the same accrue, and to discharge the principal thereof at their maturity, or respective maturities, and to meet all payments due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as in section 89-1301 provided, at the times such payments by such contract become due and payable. Where straight maturity bonds are issued, it shall be the duty of the board of commissioners of the district to create and maintain a sinking fund sufficient to pay and discharge said bonds at maturity. If said bonds shall be issued for twenty *(20)* years or less, there shall be annually levied for such sinking fund a special tax or assessment, as aforesaid, sufficient to produce a net amount represented by the quotient found by dividing the aggregate amount of the principal of the bonds by the number of years the bonds have to run; but if said bonds are issued for more than twenty *(20)* years, then it shall not be necessary to levy a special tax or assessment for sinking fund until the twentieth year prior to the maturity of the bonds, at which time and each

Annual levy and collection.

Payments due.

Sinking fund.

Computation of levy.

Deferred levy.

HeinOnline -- 1971 vol. I 968 1971

year thereafter there shall be levied and collected a special tax or assessment sufficient to produce a net sum equal to one-twentieth *(1/20)* part of the aggregate amount of the principal of the bonds.

Certified copy filed with county clerk.

(3) A certified copy of such resolution shall be filed with the clerk of the board of county commissioners of each county in which the lands of the irrigation district lie, and the special tax or assessment therein provided for shall be levied and collected as hereinafter prescribed, and when so collected shall, by the county treasurer having custody of the funds of the district, be placed in a special fund and used solely for the payment of all amounts due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as in section 89-1301 provided, and for the payment of the interest on and principal of said bonds when due, so long as any of said bonds or the interest coupons thereto appertaining remain outstanding and unpaid.

Levy.

Deposit—special fund.

Power of board to pay from other funds.

(4) In the event that for any reason any special tax or assessment hereinabove provided for cannot or shall not be levied and collected in time to meet any interest falling due on any bonds issued hereunder, then the board of commissioners shall have the power and authority, and it shall be their duty, to provide for and pay such interest when due, either out of any of the funds in hand in the treasury of the district not otherwise appropriated, or by warrants drawn against the next district tax or assessment levied or to be levied. Said warrants shall be in addition to those mentioned in section 89-1701.

Investment.

(5) The board of commissioners shall have power and authority to direct the investment of the funds in any bond sinking fund aforesaid, in interest-bearing securities, whenever in their judgment the same may be to the best interest of the district. But all such securities shall be converted into cash in time to meet the principal on the bonds, payable from such sinking fund promptly at their maturity."

Amending clause.

Section 35. Section 89-2348, R.C.M., 1947, is amended to read as follows:

Court to order assessment for new work—maximum 15 installments.

"89-2348. **Assessments for construction—annual installment.** At the time of the confirmation of such assessments, it shall be competent for the court to order the

HeinOnline -- 1971 vol. I 969 1971

assessment for construction of new work, to be paid in not more than fifteen *(15)* annual installments, of such amounts and at such times as will be convenient for the accomplishment of the proposed work, or for the payment of the principal and interest of such notes or bonds of said district, as the court shall grant authority to issue, for the construction of new work. The court shall also, by such order, fix a date on which the first installment of the assessments for construction shall become due, not more than five *(5)* years after the date of the order, and each of said installments shall draw interest at the rate *fixed by the court in accordance with law* from the date of said order."

Date.

Interest.

Amending clause.

Section 36. Section 89-2501, R.C.M., 1947, is amended to read as follows:

Commissioners may borrow money.

"89-2501. **Borrowing money—procedure to issue notes or bonds.** (1) The commissioners may borrow money not exceeding the amount of assessment for the cost of construction and additional assessments, as provided in section 89-2350, unpaid at the time of borrowing, for the construction or repair of any work which they shall be authorized to construct or repair, or for the payment of any indebtedness which they may have lawfully incurred, and may issue notes or negotiable coupon bonds on the district, bearing interest, payable semiannually and not running beyond one *(1)* year after the payment of the last installment of the assessment, on account of which money is borrowed, shall fall due.

May issue notes or negotiable coupon bonds.

(2) Before the issuance of said notes or bonds, the commissioners shall pass a resolution providing for the issuance of such notes or bonds, which said resolution shall fix the rate of interest which said notes or bonds shall bear, the time of payment and, if redeemable before maturity, the date thereof, and shall prescribe the denominations, not exceeding one thousand dollars *($1,000)*, and form thereof, and may provide that both the principal and interest of said notes and bonds shall be payable at some convenient banking house, or trust company's office, to be named in said notes or bonds; such notes or bonds, and the coupons attached thereto, shall bear the signatures of the president and the secretary of the drainage district; and the corporate seal of the drainage district shall be affixed to each of the notes or bonds.

Resolution.

Interest.

Denominations.

Place of payment.

Signatures.

Seal.

HeinOnline -- 1971 vol. I 970 1971

(3) Upon execution, the notes or bonds shall be deposited with the county treasurer, who shall register the same in a book for that purpose, which shall show the number and amount of each note or bond, its date, the date payable and redeemable, where payable, the person to whom issued, and upon sale of the said notes or bonds, the county treasurer shall deliver the same to the person or persons to whom sold, upon their making payment for the same; said notes or bonds may be sold by the commissioners at either public or private sale, either with or without advertisement as they may deem it to the best interests of the district; said notes or bonds shall not be sold at less than ninety percent *(90%)* of their face value; said notes or bonds shall not be held to make the commissioners personally liable, but shall constitute a lien upon the assessments for the repayment of the principal and interest of such notes or bonds.

Registration.

Delivery.

Public or private sale.

90% of face value.

Lien on assessments.

(4) In case any moneys derived from bonds sold to pay for the original construction of said improvement, now or hereafter, remains on hand after the work is completed in original construction, and paid for, and not raised for damages unpaid for, such residue may be used in the maintenance and repair, as in this act provided before making assessments for such maintenance and repair."

Use of excess monies.

Section 37. Section 35-115, R.C.M., 1947, is amended to read as follows:

Amending clause.

"35-115. **Form and sale of bonds.** The bonds of the authority shall be authorized by its resolution and shall be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding sixty *(60)* years from their respective dates, bear interest at such rate or rates, be in such denominations (which may be made interchangeable) be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution or its trust indenture or mortgage may provide.

Bond provisions.

Maximum term 60 years.

The bonds may be sold at public sale held after notice published once at least ten *(10)* days prior to such sale in a newspaper having a general circulation in the city and in a financial newspaper published in the city of

Public sale.

Publication of notice.

HeinOnline -- 1971 vol. I 971 1971

..... or in the city of .....,

Private sale to federal government.

provided, however, that such bonds may be sold to the federal government at private sale without any public advertisement. The bonds may be sold at such price or prices as the authority shall determine.

Interim certificates.

Pending the authorization, preparation, execution or delivery of definitive bonds, the authority may issue interim certificates, or other temporary obligations to the purchaser of such bonds. Such interim certificates, or other temporary obligations, shall be in such form, contain such terms, conditions and provisions, bear such date or dates, and evidence such agreements relating to their discharge or payment or the delivery of definitive bonds as the authority may by resolution, trust indenture or mortgage determine.

Validity of signatures.

In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until such delivery.

Authority may purchase issued bonds.

The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof and the accrued interest; provided, however, that bonds payable exclusively from the revenues of a designated project or projects shall be purchased out of any such revenues available therefor. All bonds so purchased shall be canceled. This paragraph shall not apply to the redemption of bonds.

Negotiability.

Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to this act shall be fully negotiable."

Amending clause.

Section 38. Section 47-124, R.C.M., 1947, is amended to read as follows:

"47-124. **Legal interest.** Except as otherwise provided by the Uniform Commercial Code: Unless there is an express contract in writing, fixing a different rate, *or a law or ordinance or resolution of a public body fixing a different rate on its obligations,* interest is payable on all moneys at the rate of six percent (6%) per annum after they become due on any instrument of writing, except a judgment, on an account stated, and on moneys lent

Legal interest 6% per annum—exceptions.

HeinOnline -- 1971 vol. I 972 1971

or due on any settlement of accounts from the date on which the balance is ascertained, and on moneys received to the use of another and detained from him. In the computation of interest for a period of less than one (1) year, three hundred and sixty-five (365) days are deemed to constitute a year."

365 days deemed one year.

Section 39. Section 75-7115, R.C.M., 1947, is amended to read as follows:

Amending clause.

"75-7115. **Preparation and form of ballots for bond election.** The school district shall cause ballots to be prepared for all bond elections, and whenever bonds for more than one purpose are to be voted upon at the same election, separate ballots shall be prepared for each purpose. All such ballots shall be substantially in the following form:

Ballots for school bond elections.

Form.

OFFICIAL BALLOT
SCHOOL DISTRICT BOND ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BONDS —YES" if you wish to vote for the bond issue; if you are opposed to the bond issue make an X or similar mark in the square before the words "BONDS—NO."

Shall the board of trustees be authorized to issue and sell bonds of this school district in the amount of ..... dollars ($.....) bearing interest at a rate not more than *seven* percent *(7%)* per annum, payable semiannually, during a period not more than ..... years, for the purpose ..... (here state the purpose the same way as in the notice of election).

☐ BONDS — YES

☐ BONDS — NO."

Section 40. Section 75-7116, R.C.M., 1947, is amended to read as follows:

Amending clause.

"75-7116. **Notice of bond election by separate purpose.** Any school district bond election shall be conducted in accordance with the school election provisions of this title except that the election notice required therein shall be in substantially the following form:

Form of notice.

HeinOnline -- 1971 vol. I 973 1971

NOTICE OF SCHOOL DISTRICT BOND ELECTION

Notice is hereby given by the trustees of School District No. ..... of ..... County, State of Montana, that pursuant to a certain resolution duly adopted at a meeting of the board of trustees of said school district held on the ..... day of ....., A.D., 19....., an election of the registered electors of School District No. ..... of ..... County, State of Montana, who are taxpayers therein and whose names appear on the last completed assessment roll for state, county and school district taxes prior to the holding of such election, will be held on the ..... day of ....., A.D., 19....., at ..... for the purpose of voting upon the question of whether or not the trustees shall be authorized to issue and sell bonds of said school district in the amount of ..... dollars ($.....), bearing interest at a rate not more than *seven* percent *(7%)* per annum, payable semi-annually, for the purpose of (here state purpose). The bonds to be issued will be either amortization or serial bonds, and amortization bonds will be the first choice of the board of trustees. The bonds to be issued, whether amortization or serial bonds, will be payable in installments over a period not exceeding ..... (state number) years.

The polls will be open from ..... o'clock ....m. and until ..... o'clock ....m. of the said day.

Dated and posted this ..... day of ....., A.D., 19.....

.....
Chairman of School District No. ..... of ..... County, State of Montana.

Each purpose stated.

If the bonds proposed to be issued are for more than one purpose, then each purpose shall be separately stated in the notice together with the proposed amount of bonds therefor."

Amending clause.

Section 41.—Section 75-7119, R.C.M., 1947, is amended to read as follows:

Sale of school district bonds.

"75-7119. **Notice of sale of school district bonds.** The trustees shall cause the notice of the sale of the bonds to be given. The notice shall state the purpose for which

HeinOnline -- 1971 vol. I 974 1971

the bonds are to be issued and the amount proposed to be issued, and shall be substantially in the following form: Form of notice.

NOTICE OF SALE OF SCHOOL DISTRICT BONDS

Notice is hereby given by the trustees of School District No. ..... of ..... County, state of Montana, that the said trustees will on the ..... day of ....., 19....., at the hour of ..... o'clock ....m. at ....., in the said school district, sell to the highest and best bidder for cash, either amortization or serial bonds of the said school district in the total amount of ..... dollars ($.....), for the purpose of .....

Amortization bonds will be the first choice and serial bonds will be the second choice of the trustees.

If amortization bonds are sold and issued, the entire issue may be put into one single bond or divided into several bonds, as the trustees may determine upon at the time of sale, both principal and interest to be payable in semiannual installments during a period of ..... years from the date of issue.

If serial bonds are issued and sold they will be in the amount of ..... dollars ($.....) each, ... dollars ($.....), the sum of ..... dollars ($.....) of the said serial bonds will become payable on the ..... day of ....., 19....., and the sum of ..... dollars ($.....) will become payable on the same day each year thereafter until all of such bonds are paid.

The bonds, whether amortization or serial bonds, will bear date of ....., 19....., and will bear interest at a rate not exceeding *seven* percent *(7%)* per annum, payable semiannually, on the ..... day of ..... (month) ..... and ..... (month) ..... in each year, and will be redeemable in full. (Here insert optional provisions, if any, to be recited on the bonds.)

The bonds will be sold for not less than their par value with accrued interest, and all bidders must state the lowest rate of interest at which they will purchase the bonds at par. Such bonds shall be sold in open competi-

HeinOnline -- 1971 vol. I 975 1971

tion bidding, by written bids, or by sealed bids. The trustees reserve the right to reject any and all bids and to sell the said bonds at private sale.

All bids other than by or on behalf of the state board of land commissioners must be accompanied by money, a certified check, cashier's check, bank money order or bank draft, drawn and issued by a national banking association located in Montana or by any banking corporation incorporated under the laws of Montana, in the sum of ..... dollars ($.....) payable to the order of the district, which will be forfeited by the successful bidder in the event that he shall refuse to purchase the bonds.

All bids should be addressed to the undersigned district.

.....
Chairman, School District No. ..... of ..... County
Address: .....

ATTEST:

Subscribed and sworn to before me this ..... day of ....., 19.....

.....
Notary Public for the State Residing at ....., Montana.
My Commission expires ....."

Amending clause.

Section 42. Section 89-2502, R.C.M., 1947, is amended to read as follows:

Court may authorize refund of indebtedness.

"89-2502. **Refunding indebtedness of district.** And the court may, on the petition of the commissioners, authorize them to refund any lawful indebtedness of the district by taking up and canceling all of its outstanding notes and bonds, as fast as they become due, or before, if the holders thereof will surrender the same, and issuing in lieu thereof new notes or bonds of such district, payable in such longer time as the court shall deem proper, not to exceed in the aggregate the amount of all notes and bonds of the district then outstanding, and the unpaid accrued interest thereon."

Issuance of new notes or bonds.

Amending clause.

Section 43. Section 89-3426, R.C.M., 1947, is amended to read as follows:

"89-3426. **Issuance of bonds—maximum term and in-**

HeinOnline -- 1971 vol. I 976 1971

terest rate—sale as single issue of multi-purpose bonds. A district may issue bonds payable from revenues, assessments, or both, or the district may use other financing as provided by this act for the cost of works. Bonds issued shall be for a maximum term of not to exceed forty (40) years. Bonds for more than one purpose may be sold as a single issue."

District may issue bonds.

Maximum term 40 years.

Single issue.

Section 44. This act shall become effective on passage and approval.

Effective immediately.

Approved March 9, 1971.

CHAPTER NO. 235.

An Act to Amend Section 84-1502, R.C.M., 1947, Providing Deductions in Computing Income of Corporations; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1502, R.C.M., 1947, is amended to read as follows:

Amending clause.

"84-1502. **Deductions allowed in computing income.** In computing the net income the following deductions shall be allowed from the gross income received by such corporation within the year from all sources: 1. All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

Computation of net income—deductions.

Expenses.

2. All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and

Losses and depreciation.

HeinOnline -- 1971 vol. I 977 1971

Limitations.

tear of property arising out of its use or employment in the business or trade. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements or betterments made to increase the value of any property or estate and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

Depletion and depreciation.

3. In the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the state board of equalization; provided, however, for the purpose of determining depletion, depreciation and obsolescence, in all cases not expressly provided for in this act, the provisions of the most recent act of Congress of the United States, commonly known as the Federal Income Tax Act, and the rules, regulations and decisions thereunder, insofar as the same are applicable and pertinent and not repugnant to or inconsistent with the express provisions of this act, shall be the rule of decision by the state board of equalization.

Rule of decision.

Interest paid.

4. The amount of interest paid within the year on its indebtedness incurred in the operation of the business from which its income is derived; but no interest shall be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance or improvement of property or for the conduct of business unless the income from such property or business would be taxable under this act.

Limitation.

Interest income.

5. Interest income from obligations of the state of Montana, or any political subdivision or municipality of the state of Montana.

Taxes paid—exclusions.

6. Taxes paid within the year except not to include the following:

(a) Taxes imposed by this act.

(b) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed.

(c) Taxes on or according to or measured by net income of profits imposed by authority of the government of the United States.

HeinOnline -- 1971 vol. I 978 1971

Taxes deductible under this act shall be construed to include taxes imposed by any county, school district or municipality of this state.

7. In the case of insurance companies, in addition to the above, the net addition required by law to be made within the year to reserve funds, and paid within the year on policy and annuity contracts."

Required reserve funds paid on insurance contracts.

Section 2. The provisions of this act shall apply to all taxable years commencing on or after December 31, 1970, whether on a calendar or fiscal year basis.

Taxable years—December 31, 1970.

Section 3. This act is effective on passage and approval.

Effective immediately.

Approved March 9, 1971.

CHAPTER NO. 236.

An Act Amending Section 84-4905, R.C.M., 1947, Exempting From State Income Tax the Interest Received on Obligations of the State of Montana or of Any Political Subdivision Thereof, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-4905, R.C.M., 1947, is hereby amended to read as follows:

Amending clause.

"84-4905. **Adjusted gross income.** (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, and in addition shall include the following:

Adjusted gross income defined.

Additional inclusions.

(a) Interest received on obligations of *another* state *or* territory, *or county, municipality, district, or other political subdivision thereof:*

(b) Refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability.

(2) Adjusted gross income does not include the following which are exempt from taxation under this act:

Exemptions.

(a) Interest income from obligations of the United

HeinOnline -- 1971 vol. I 979 1971

States government, *the state of Montana, county, municipality, district, or other political subdivision thereof:*

(b) Dividends from capital stock of national banks located within the state of Montana.

(c) All benefits received under the Federal Employees Retirement Act not in excess of three thousand six hundred dollars ($3,600).

(d) All benefits paid under the Montana Teachers Retirement Act which are specified as exempt from taxation by section 75-2713.

(e) All benefits paid under the Montana Public Employees Act which are specified as exempt from taxation by section 68-1303.

(f) All benefits paid under the Montana Highway Patrol Retirement Act which are specified as exempt from taxation by section 31-221.

(g) Montana income tax refunds or credits thereof.

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect, but with respect to which the election provided for under section 84-1501.2, as amended, is not in effect, adjusted gross income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits or losses required to be included in the shareholder's federal income tax adjusted gross income by reason of the said election under subchapter S. However, the shareholder's adjusted gross income shall include actual distribution from the corporation to the extent they would be treated as taxable dividends if the subchapter S. election were not in effect."

Taxable years—December 31, 1970.

Section 2. The provisions of this act shall apply to all taxable years commencing on or after December 31, 1970, whether on a calendar or fiscal year basis.

Effective immediately.

Section 3. This act is effective on passage and approval.

Approved March 9, 1971.

HeinOnline -- 1971 vol. I 980 1971

CHAPTER NO. 237.

An Act to Amend Section 40-2821, R.C.M., 1947, to Provide That the Temporary Tax on Net Insurance Premiums of Two and Three-Quarters Percent (2¾%) Be Made Permanent; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 40-2821, R.C.M., 1947, in section 1, chapter 358, laws of 1969, is amended to read as follows: Amending clause.

"40-2821. **Tax.** (1) Each authorized insurer, and each formerly authorized insurer with respect to premiums so received while an authorized insurer in this state, shall file with the commissioner, on or before March 1 each year, a report (except as to wet marine and transportation insurance taxed under subsection (3) below) in form as prescribed by the commissioner showing total direct premium income including policy, membership and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance whether designated as a premium or otherwise, received by it during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana (with proper proportionate allocation of premium as to such property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state), after deducting from such total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons and other similar returns paid or credited to policyholders with respect to such policies. As to title insurance 'premium' includes only the risk portion of the charge for such insurance. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

Authorized insurers required to file annual report of premium income with commissioner.

Inclusions.

Deductions.

HeinOnline -- 1971 vol. II 981 1971

Payment of tax—2¾%.

(2) Coincident with the filing of the tax report referred to in subsection (1) above, each such insurer shall pay to the commissioner a tax upon such net premiums, the tax to be computed at the rate of *two and three-quarters percent (2-3/4%)* of such premiums.

Deduction of tax paid by insurer having 50% of paid-in capital stock invested in Montana securities.

Provided, that where any insurer has not less than fifty percent (50%) of its paid-in capital stock invested in Montana securities, the insurer shall be allowed to deduct whatever tax it may have already paid to the state of Montana and its political subdivisions, during the same calendar year as to which premuim tax is being paid, from the amount otherwise due under this section. For

"Paid-in capitol stock" defined.

the purpose of this provision 'paid-in capital stock' as to a mutual or reciprocal insurer shall be deemed to be an amount equal to ten percent (10%) of the insurer's

"Montana securities" defined.

assets; and 'Montana securities' shall be deemed to include only general obligations of the state of Montana or of its political subdivisions, mortgage loans secured by a first lien upon real estate located in Montana, and real estate located in Montana owned by the insurer, all if otherwise lawful investments of the insurer under this code.

Annual report of gross underwriting profit on wet marine and transportation insurance.

(3) (a) On or before March 1 of each year each insurer shall file with the commissioner, on forms as prescribed and furnished or accepted by him, a report of its gross underwriting profit on wet marine and transportation insurance, as defined in section 40-2907, written in this state during the calendar year next preceding, and

Tax—¾ of 1%.

shall at the same time pay to the commissioner a tax of three-quarters of one percent (¾ of 1%) of such gross underwriting profit.

Computation of profit—deductions.

(b) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e. gross premiums less all return premiums and premiums for reinsurance) on such wet marine and transportation insur-

Net losses.

ance contracts the net losses paid (i.e. gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include for computation of the tax prescribed by this subsection (3) the amounts re-

Participation dividends.

funded, credited or paid as participation dividends or savings by such insurers to the holders of such contracts.

HeinOnline -- 1971 vol. II 982 1971

(4) That portion of the tax paid hereunder by an insurer on account of premuims received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

Tax paid on fire insurance premiums shall be separately stated.

Allocation.

(5) With respect to authorized insurers the premium tax provided by this section shall be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state and taxes payable under section 82-1231, R.C.M., 1947, (tax for support of state fire marshall activities), and demands for state, county, city, district, municipal, and school taxes, licenses, fees, and excises made because of operations prior to January 1, 1957.

Tax payment in lieu of other taxes.

Exceptions.

(6) The state of Montana hereby pre-empts the field of imposing excise, privilege, franchise, income, license, and similar taxes, licenses, and fees upon insurers and their general agents and agents as such, and on the intangible property of insurers or such agents; and no county, city, municipality, district, school district, or other political subdivision or agency in Montana shall levy upon insurers, or upon their general agents and agents as such, any such tax, license, or fee additional to such as are levied by the legislative assembly of Montana in this code.

Pre-emption clause.

(7) The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section.

Penalties.

(8) The provisions of this section shall apply to taxable years beginning after December 31, *1968*."

Taxable years—December 31, 1968.

Section 2. This act is effective on its passage and approval.

Effective immediately.

Approved March 9, 1971.

HeinOnline -- 1971 vol. II 983 1971

CHAPTER NO. 238.

An Act to Establish a State Policy for the Environment and to Establish an Environmental Quality Council and Setting Forth its Powers and Duties and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

"Montana environmental policy act."

Section 1. This act may be cited as the "Montana Environmental Policy Act".

Purpose.

Section 2. The purpose of this act is to declare a state policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the state; and to establish an environmental quality council.

Declaration of state policy.

Section 3. The legislative assembly, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the state of Montana, in cooperation with the federal government and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can coexist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Montanans.

State responsibility.

(a) In order to carry out the policy set forth in this act, it is the continuing responsibility of the state of Montana to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate state plans, functions, programs, and resources to the end that the state may—

HeinOnline -- 1971 vol. II 984 1971

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations; Trustee of environment.

(2) assure for all Montanans safe, healthful, productive, and esthetically and culturally pleasing surroundings; Surroundings.

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; Beneficial uses.

(4) preserve important historic, cultural, and natural aspects of our unique heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice; Heritage.

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and Balance between population and resource.

(6) enhance the qality of renewable resources and approach the maximum attainable recycling of depletable resources. Resources.

(b) The legislative assembly recognizes that each person shall be entitled to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment. Right to healthful environment.

Section 4. The legislative assembly authorizes and directs that, to the fullest extent possible: Directions.

(a) The policies, regulations, and laws of the state shall be interpreted and administered in accordance with the policies set forth in this act, and Interpretion of laws.

(b) all agencies of the state shall Duties of state agencies.

(1) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment; Use of science and environmental arts in planning.

(2) identify and develop methods and procedures, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations; Considerations in decision making.

(3) include in every recommendation or report on proposals for projects, programs, legislation and other major actions of state government significantly affecting Proposals shall include statement on environmental impact.

HeinOnline -- 1971 vol. II 985 1971

the quality of the human environment, a detailed statement on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the propasal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

State officials duty to consult experts.

Prior to making any detailed statement, the responsible state official shall consult with and obtain the comments of any state agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate state, federal, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the environmental quality council and to the public, and shall accompany the proposal through the existing agency review processes.

Distribution of copies.

Alternatives.

(4) study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

Programs to maximize national cooperation.

(5) recognize the national and long-range character of environmental problems and, where consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize national cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

Advice and information to others.

(6) make available to counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

Ecological information.

(7) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

HeinOnline -- 1971 vol. II 986 1971

(8) assist the environmental quality council established by section 8 of this act. Assist the council.

Section 5. All agencies of the state shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this act and shall propose to the governor and the environmental quality council not later than July 1, 1972, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this act. All state agencies shall review functions. Make recommendations to governor and council.

Section 6. Nothing in section 3 or 4 shall in any way affect the specific statutory obligations of any agency of the state Specific statutory obligations.

(a) to comply with criteria or standards of environmental quality,

(b) to coordinate or consult with any other state or federal agency, or

(c) to act, or refrain from acting contingent upon the recommendations or certification of any other state or federal agency.

Section 7. The policies and goals set forth in this act are supplementary to those set forth in existing authorizations of all boards, commissions, and agencies of the state. Supplementary policies and goals.

Section 8. **Environmental Quality Council.** The environmental quality council shall consist of thirteen (13) members to be as follows: Environmental quality council.

(a) The governor or his designated representative shall be an ex officio member of the council and shall participate in council meetings as a regular member. Governor.

(b) Four (4) members of the senate and four (4) memers of the house of representatives appointed before the sixteenth legislative day in the same manner as standing committees of the respective houses are appointed. A vacancy on the council occurring when the legislative assembly is not in session shall be filled by the selection of a member of the legislative assembly by the remaining 4 Senators. 4 Representatives. Vacancy.

HeinOnline -- 1971 vol. II 987 1971

members of the council. No more than two (2) of the appointees of each house shall be members of the same political party.

4 members of general public.

(c) Four (4) members of the general public to be appointed by the governor with the consent of the senate.

Qualifications.

In considering the appointments of (b) and (c) above, consideration shall be given to their qualifications to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the state government in the light of the policy set forth in section 3 of this act; to be conscious and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the state; and to formulate and recommend state policies to promote the improvement of the quality of the environment.

Terms of office.

Section 9. **Term of office.** The four (4) council members from the house of representatives shall serve for two (2) years and may be reappointed. Two (2) council members from the senate, one from each political party, and two (2) council members from the general public shall serve for four (4) years, and these members may be reappointed for a two (2) year term. Two (2) council members from the senate, one from each political party, and two (2) council members from the general public shall serve for two (2) years and these members may be reappointed for a four (4) year term. In no case shall a member of the council serve more than six (6) years.

Chairman.

The council shall elect one of its members as chairman and such other officers as it deems necessary. Such officer shall be elected for a term of two (2) years.

Meetings.

Section 10. **Meetings.** The council may determine the time and place of its meetings but shall meet at least once each quarter. Each member of the council shall, unless he is a full-time salaried officer or employee of this state, be paid twenty-five dollars ($25) for each day in which he is actually and necessarily engaged in the performance of council duties, and shall also be reimbursed for actual and necessary expenses incurred while in the performance of council duties. Members who are full-time salaried officers or employees of this state may not be compensated for their service as members, but shall be reimbursed for their expenses.

$25 per day.

Expenses.

HeinOnline -- 1971 vol. II 988 1971

Executive director.

Section 11. **Appointment and qualifications of an executive director.** The council shall appoint the executive director and set his salary. The executive director shall hold a degree from an accredited college or university with a major in one of the several environmental sciences and shall have at least three (3) years of responsible experience in the field of environmental management.

Qualifications.

Expert qualifications.

He shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the state government in the light of the policy set forth in section 3 of this act; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the state; and to formulate and recommend state policies to promote the improvement of the quality of the environment.

Appointment of employees.

Section 12. **Appointment of employees.** The executive director, subject to the approval of the council may appoint whatever employees are necessary to carry out the provisions of this act, within the limitations of legislative appropriations.

Term of office.

Section 13. **Term and removal of the executive director.** The executive director is solely responsible to the environmental quality council. He shall hold office for a term of two (2) years beginning with July 1 of each odd-numbered year. The council may remove him for misfeasance, malfeasance or nonfeasance in office at any time after notice and hearing.

Removal for cause.

Duties.

Section 14. It shall be the duty and function of the executive director and his staff

Environmental information.

(a) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in section 3 of this act, and to compile and submit to the governor and the legislative assembly studies relating to such conditions and trends;

Studies.

Review and appraisal.

(b) to review and appraise the various programs and activities of the state agencies in the light of the policy

HeinOnline -- 1971 vol. II 989 1971

set forth in section 3 of this act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and

Recommendations.

to make recommendations to the governor and the legislative assembly with respect thereto;

Develop policies to promote environmental quality.

(e) to develop and recommend to the governor and the legislative assembly, state policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the state;

Investigation and analyses.

(d) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

Documentation of changes in natural environment.

(e) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

Studies and reports for legislation.

(f) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the legislative assembly requests;

Assistance to legislature, agencies and the public.

(g) to analyze legislative proposals in clearly environmental areas and in other fields where legislation might have environmental consequences, and assist in preparation of reports for use by legislative committees, administrative agencies, and the public.

Assistance to legislators in planning.

(h) to consult with, and assist legislators who are preparing environmental legislation, to clarify any deficiencies or potential conflicts with an overall ecologic plan.

Evaluation of programs.

(i) to review and evaluate operating programs in the environmental field in the several agencies to identify actual or potential conflicts, both among such activities, and with a general ecologic perspective, and to suggest legislation to remedy such situations.

Annual environmental quality report.

(j) to transmit to the governor and the legislative assembly annually, and make available to the general public annually, beginning July 1, 1972, an environmental quality report concerning the state of the environment which shall contain

Status of environmental classes.

(1) the status and condition of the major natural, man-made, or altered environmental classes of the state,

HeinOnline -- 1971 vol. II 990 1971

including, but not limited to, the air, the aquatic, including surface and ground water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban, and rural environment;

(2) the adequacy of available natural resources for fulfilling human and economic requirements of the state in the light of expected population pressures; Adequacy of resources.

(3) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the state in the light of expected population pressures; Trends.

(4) a review of the programs and activities (including regulatory activities) of the state and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development, and utilization of natural resources; and Review of programs.

(5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation. Remedies for deficiences.

Section 15. The environmental quality council shall have the authority to investigate, examine and inspect all records, books and files of any department, agency, commission, board or institution of the state of Montana. Council's authority to examine and inspect.

Section 16. In the discharge of its duties the environmental quality council shall have authority to hold hearings, administer oaths, issue subpoenas, compel the attendance of witnesses, and the production of any papers, books, accounts, documents and testimony, and to cause depositions of witnesses to be taken in the manner prescribed by law for taking depositions in civil actions in the district court. In case of disobedience on the part of any person to comply with any subpoena issued on behalf of the council, or any committee thereof, or of the refusal of any witness to testify on any matters regarding which he may be lawfully interrogated, it shall be the duty of the district court of any county or the judge thereof, on application of the environmental quality council to compel obedience by proceedings for contempt as the case of disobedience of the requirements of a subpoena issued from such court on a refusal to testify therein. Hearings, oaths, subpoenas, witnesses. Depositions. Contempt proceedings.

HeinOnline -- 1971 vol. II 991 1971

Duty of council to consult others.

Section 17. In exercising its powers, functions, and duties under this act, the council shall

(a) consult with such representatives of science, industry, agriculture, labor, conservation organizations, educational institutions, local governments and other groups, as it deems advisable; and

Utilize other sources.

(b) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the commission's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

Effective immediately.

Section 18. This act is effective on its passage and approval.

Approved March 9, 1971.

CHAPTER NO. 239

An Act Providing for Special or Rural Improvement District Type Bonding for Flood Control and Water Conservation Projects; Amending Section 89-3312, R.C.M. 1947

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 89-3312, R.C.M. 1947, is amended to read as follows:

Cities, towns and counties authorized to issue special improvement district or rural improvement district bonds.

"89-3312. **Indebtedness and bonds — bond election — *special assessment* to pay indebtedness.** Cities, towns and counties are hereby authorized to contract indebtedness and to issue *special improvement district or rural improvement district* bonds to provide funds for the payment of the cost of improvements contemplated by this act by following the following procedures:

Special election.

The governing body of the city, town or county may call a special election to vote upon the proposition of issuing said bonds or may submit the proposition as a special question at a regular municipal or general election.

Notice and conduct.

The notice of the election and the election itself shall be

HeinOnline -- 1971 vol. II 992 1971

carried out in accordance with sections *11-2201* through *11-2288*, R.C.M. 1947, as amended, as to cities, and in accordance with sections *16-1601* through *16-1638*, R.C.M. 1947, as amended, as to the counties.

Tax *assessments* for the payment of said bonds shall be levied in accordance with sections *11-2201* through *11-2288* and sections *16-1601* through *16-1638*, R.C.M. 1947, as amended, as to cities and counties, respectively."

Levy of assessments.

Approved March 9, 1971

CHAPTER NO. 240

An Act to Change Age Requirements to Nineteen (19) Years of Age and To Bar Discrimination in Ages Due to Sex; Amending Sections 4-161, 4-330, 4-337, 4-413, 4-439, 4-502, 4-504, 4-506, 11-951, 11-1602, 41-1135, 41-1136, 48-143, 59-301, 61-203, 64-101, 75-8702, 81-407, 81-908, 93-1301, 93-100-2, 94-35-106, 94-35-106.2, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-161, R.C.M. 1947, is amended to read as follows:

Amending clause.

"4-161. **Age limit for sale of liquor.** Except in the case of liquor given to a person under the age of *nineteen (19)* years by his parent or guardian for beverage or medicinal purposes, or administered to him by his physician or dentist for medicinal purposes, or sold to him by a vendor or druggist upon the prescription of a physician, no person shall sell, give, or otherwise supply liquor to any person under the age of *nineteen (19)* years, or permit any person under that age to consume liquor."

Supplying liquor to person under 19 years of age prohibited.

Section 2. Section 4-330, R.C.M. 1947, is amended to read as follows:

Amending clause.

"4-330. **Purchase of beer by retailer — persons to whom beer may not be sold, delivered or given by brewers, wholesalers or retailers.** It shall be unlawful for such retailer to purchase or acquire beer from anyone except a brewer or wholesaler licensed under the provisions of this act.

Retailer may purchase beer only from licensed brewer or wholesaler.

HeinOnline -- 1971 vol. II 993 1971

Supplying beer prohibited.

It shall be unlawful for any brewer, wholesaler or retailer, his or her employee or employees to sell, deliver or give away, or cause or permit to be sold, delivered or given away, any beer to:

Person under 19. 1. Any person under the age of *nineteen (19)* years;

Intoxicated person. 2. Any intoxicated person or any person actually, apparently or obviously intoxicated;

Habitual drunkard. 3. An habitual drunkard; or

Interdicted person. 4. An interdicted person.

Violation penalties. Any brewer, wholesaler or retailer violating any of the provisions of this section, shall upon conviction thereof be subject to the penalties provided for in section 4-305 of the Montana Beer Act, and in addition thereto the license of any such brewer, wholesaler or retailer shall, in the discretion of the board, be immediately revoked, or said license may be suspended for a period of not more than three (3) months. Any minor or other person who knowingly misrepresents his or her qualification for the purpose of obtaining beer from any licensee shall be equally guilty with said licensee and shall, upon conviction thereof, be subject to the penalty provided in section 4-305 of the Montana Beer Act."

Misrepresentation.

Penalty.

Amending clause. Section 3. Section 4-337, R.C.M. 1947, is ameneded to read as follows:

"4-337. **Railroad car or carrier's license — application for and issuance of license — inspection — sale to persons under** *nineteen (19)* **years of age or disorderly person.** Any person maintaining or operating any railroad car or train as a common carrier for the transportation of passengers, or any other person operating a buffet or dining car for any common carrier, desiring to sell beer under the provisions of this act, shall first apply to the board for a permit so to do, accompanying the application with the license fee herein prescribed. Upon being satisfied from said application or otherwise that the applicant is qualified under the provisions of this act, the board shall issue a license for the sale of beer by such person, which shall at all times be prominently displayed in the car, operated by the applicant, wherein beer or malt liquors are served. The board shall have the right at any time to make an inspection of the train or cars

Application for permit to sell beer on railroad trains.

License fee.

License display.

Right to inspect.

HeinOnline -- 1971 vol. II 994 1971

operated by any railway company in this state, to ascertain whether this act is being strictly complied with, and if not, the board is authorized and empowered to cancel such license, after which the sale of any beer or malt liquors by any such common carrier, or other person operating buffet or dining car for such common carrier, shall be unlawful and subject to the penalties herein prescribed. And it shall be unlawful for any such common carrier, or other person operating buffet or dining car for such common carrier, to sell beer or malt liquors to any person under the age of *nineteen (19)* years or who may appear to be in an intoxicated or disorderly condition."

Right to cancel license.

Violation penalties.

Unlawful to sell beer to person under age of 19 years.

Section 4. Section 4-413, R.C.M. 1947 is amended to read as follows:

Amending clause.

"4-413. **Persons to whom liquor may not be sold or given.** No licensee or his or her employee or employees, nor any other person, shall sell, deliver, or give away or cause or permit to be sold, delivered or given away any liquor, beer or wine to:

Supplying liquor prohibited.

1. Any person under the age of *nineteen (19)* years.

Person under 19.

2. Any intoxicated person or any person actually, apparently or obviously intoxicated.

Intoxicated person.

3. An habitual drunkard.

Habitual drunkard.

4. An interdicted person.

Interdicted person.

5. Any minor, or other person who knowingly misrepresents his or her qualifications for the purpose of obtaining liquor, beer or wine from such licensee shall be equally guilty with said licensee and shall, upon conviction thereof, be subject to the penalty provided in section 4-439 provided, however, that nothing herein contained shall be construed as authorizing or permitting the sale of liquor, beer or wine to any person in violation of any federal law."

Misrepresentation.

Penalty.

Section 5. Section 4-439, R.C.M. 1947, is amended to read as follows:

Amending clause.

"4-439. **Penalty for violating act — revocation of license.** Any person violating any of the provisions of this act, shall upon conviction thereof, be deemed guilty of a misdemeanor and punishable by such fine or im-

Violation penalties.

HeinOnline -- 1971 vol. II 995 1971

prisonment, or both, as provided by law, except as is herein otherwise provided. If any such licensee is convicted of any offense under this act his license shall be immediately revoked, or in the discretion of the board suspended temporarily for a time to be determined by the board. Further, if any person under the age of *nineteen (19)* is convicted of an offense under this act he shall be subject to a one hundred dollar ($100) fine or thirty (30) days in confinement. It shall be further mandatory under the provisions of this act that all such licensees display in a prominent place in his premises a placard as issued by the board stating fully the consequences for violations by persons under the age of *nineteen (19)* years of the provisions of this act.

Revocation or suspension of license.

Violation by person under 19.

Penalties.

Any person who invites a person under the age of *nineteen (19)* years into a public place where liquor is sold and treats, gives or purchases liquor for such person, or permits such person in a public place where liquor is sold to treat, give or purchase liquor for him, or holds out such person to be over the age of *nineteen (19)* years to the owner of the liquor establishment, or his or her employee or employees, shall be guilty of a misdemeanor."

Giving liquor in public place to person under 19.

Misdemeanor.

Section 6. Section 4-502, R.C.M. 1947, is amended to read as follows:

Amending clause.

"4-502. **Identification card — form.** Any person who desires to procure any beer and/or liquor from any vendor or licensee may, for the purpose of aiding such vendor or licensee to determine whether or not such person is at least *nineteen (19)* years of age, be required to complete and sign an identification card, which shall be in substantially the following form:

Identification card.

Form.

ALCOHOLIC BEVERAGES IDENTIFICATION CARD

This card if properly completed and signed may be accepted by the vendor or licensee named below for the purpose of establishing the legal age of the person designated who desires to purchase alcoholic beverages.

Complete Two or More of the Following:

Social Security Card No. ....., Issued at ..... Date ....
Birth Certificate issued at .....; Date of birth .....
Draft Card issued at .....; Date of birth .....
Discharge Papers: Service .....; Issued at .....;

HeinOnline -- 1971 vol. II 996 1971

Date of birth .....
Military Identification Card or Pass: Service .....;
Issued at ..... Date ..... Age Shown .....
Driver's License: Date .....; Issued at .....;
Age Shown .....
I hereby represent to ..... that I am over the age of *nineteen (19)* years, having been born on the ..... day of ....., 19....., at .....,
and this statement is made for the purpose of establishing my age in order to obtain service of alcoholic beverages with the full knowledge that I am subject to fine and/or imprisonment, for any misrepresentation made herein. I have submitted the documents and papers checked on this card, and the person to whom submitted has compared the signatures thereon and has also compared the descriptions on said documents with my physical characteristics.

(Witness) ..... (Signature) .....
(Address) ..... (Address) .....

Board shall distribute blank forms.

The Montana liquor control board shall cause to be printed and distributed upon request to vendors and licensees blank forms of the identification card herein prescribed."

Amending clause.

Section 7. Section 4-504, R.C.M. 1947, is amended to read as follows:

No suspension or revocation of license—licensee in possession of identification card.

"4-504. **License of licensee not to be revoked or suspended for selling to minor when identification card properly completed, signed and filed.** The license of any licensee in possession of an identification card properly completed, signed and filed as provided in this act shall not be suspended or revoked for selling beer and/or liquor to a person under the age of *nineteen (19)* years who has presented such identification card at the time of purchase and delivered the same for filing as herein provided."

Amending clause.

Section 8. Section 4-506, R.C.M. 1947, is amended to read as follows:

Application for card.

"4-506. **All persons attaining the age of** *nineteen (19)* **years may apply to the county clerk and recorder for an identification card.** All persons attaining the age of *nineteen (19)* years may apply to the county clerk and recorder of the county in which the applicant resides for an identification card which shall prima facie establish

HeinOnline -- 1971 vol. II 997 1971

that the applicant has reached the age of *nineteen (19)* years."

Amending clause.

Section 9. Section 11-951, R.C.M. 1947, is amended to read as follows:

Council authorized to levy poll tax on males between 19 and 45 years of age.

"11-951. **Poll tax — limitation on amount — work for failure to pay.** The city or town council has power: To levy and collect annually from each able-bodied resident of the city or town, between the ages of *nineteen (19)* and forty-five *(45)* years, a poll tax not exceeding three dollars *($3)* per capita; and in case of failure or refusal of any person within the prescribed age to pay said tax, to provide by ordinance that the person failing or refusing must work one day on the public streets of the city."

Work on public streets.

Amending clause.

Section 10. Section 11-1602, R.C.M. 1947, is amended to read as follows:

Concurrent jurisdiction of police courts.

"11-1602. **Jurisdiction of police courts.** The police court has concurrent jurisdiction with the justice of the peace of the following public offenses committed within the county:

Petit larceny.

1. Petit larceny.

Assault and battery.

2. Assault and battery, not charged to have been committed upon a public officer in the discharge of his official duty, or with intent to kill.

Breaches of the peace—misdemeanors.

3. Breaches of the peace, riots, affrays, committing willful injury to property, and all misdemeanors punishable by fine not exceeding five hundred dollars ($500), or by imprisonment not exceeding six (6) months, or by both fine and imprisonment.

Vagrancy.

4. Proceedings respecting vagrants, lewd, or disorderly persons. Such offenses must be prosecuted in the name of the state of Montana.

Possession of liquor—person under 19.

5. Possession of beer or liquor by persons under the age of *nineteen (19)* years in violation of section 94-35-106.2, R.C.M. 1947.

Sale of liquor to minors.

6. Selling, giving away or disposing of intoxicating liquor to minors in violation of section 94-35-106, R.C.M. 1947.

Limitation.

Said police court shall have no jurisdiction of any civil cause, except as provided in the next section."

HeinOnline -- 1971 vol. II 998 1971

Section 11. Section 41-1135, R.C.M. 1947, is amended to read as follows: Amending clause.

"41-1135. **Employment of persons under** *nineteen (19)* **as bartenders forbidden.** No person under the age of *nineteen (19)* years of age shall be employed as a bartender, waiter, or waitress whose duty is to serve customers purchasing liquors, beer or wines in any establishment which sells liquors, beer or wines at retail." Employment of person under 19 to serve liquor prohibited.

Section 12. Section 41-1136, R.C.M. 1947, is amended to read as follows: Amending clause.

"41-1136. **Penalty.** Any retail vendor of liquors, beer or wines who employs any such person under the age of *nineteen (19)* years is guilty of a misdemeanor." Misdemeanor.

Section 13. Section 48-143, R.C.M. 1947, is amended to read as follows: Amending clause.

"48-143. **Persons capable of marriage — when consent of parent or guardian required — special authority for underage marriages.** (1) Every male person who has attained the full age of *nineteen (19)* years or who has obtained the permission of the district judge as provided in subparagraph (3) and every female person who has attained the full age of *nineteen (19)* years or who has obtained the permission of the district judge as provided in subparagraph (3) shall be capable in law of contracting marriage if otherwise competent. Persons 19 years of age or having permission of district judge may contract marriage.

(2) If either of the contracting parties is under the age of *nineteen (19)*, no license shall be issued without the consent of his or her parents or guardian, or of the parent having the actual care, custody and control of said party, given before the clerk of the court under oath, or certified under the hands of such parents or guardian as aforesaid attested by two adult witnesses, and properly verified by affidavit (or affirmation) before a notary public or other official authorized by law to take affidavits, which certificate shall be filed of record in the office of the said clerk of court at the time of application for said license. If there is no guardian or parent having the actual care, custody and control of said party, then the judge of the district court in the county where the application is pending may, after hearing upon proper cause shown, make an order allowing the marriage of said party. License shall not issue to person under 19 without parental consent. Verification. District judge may allow marriage.

HeinOnline -- 1971 vol. II 999 1971

Persons under 19 having parental consent and approval of district judge may contract marriage.

(3) A male under the age of *nineteen (19)* or a female under the age of *nineteen (19)* may lawfully contract to marry and obtain a marriage license if there is first procured the consent of the parent or guardian as provided in subparagraph (2) and if the district judge of the county wherein the application is made, after examining the parties under oath, shall decide that it is to the best interest of such applicant and of the established public policy of the state of Montana, and shall authorize the clerk of the court to issue the license in conformance with the other provisions of this act."

License.

Amending clause.

Section 14. Section 59-301, R.C.M. 1947, is amended to read as follows:

Person holding civil office must be 19 and citizen of state.

"59-301. **Age and citizenship.** No person is capable of holding a civil office in this state, who at the time of his election or appointment is not of the age of *nineteen (19)* years and a citizen of this state."

Amending clause.

Section 15. Section 61-203, R.C.M. 1947, is amended to read as follows:

Persons eligible to adopt a child.

"61-203. **Who may adopt.** The following persons are eligible to adopt a child:

(1) A husband and wife jointly, or either the husband or wife if the other spouse is a parent of the child.

(2) An unmarried person who is at least *nineteen (19)* years old.

(3) A married person at least *nineteen (19)* years old who is legally separated from the other spouse.

(4) In the case of an illegitimate child, its unmarried father or mother."

Amending clause.

Section 16. Section 64-101, R.C.M. 1947, is amended to read as follows:

Minors defined.

"64-101. **Minors and adults defined.** Minors are:

1. Males under *nineteen (19)* years of age;

2. Females under *nineteen (19)* years of age.

All other persons are adults."

Amending clause.

Section 17. Section 75-8702, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1000 1971

"75-8702. **Definitions.** Terms used in this chapter are defined as follows: Definitions.

(1) "domicile" means person's true, fixed, and permanent home and place of habitation; "Domicile."

(2) "emancipated minor" means person under the age of *nineteen (19)* years who supports himself from his own earnings or is married. "Emancipated minor."

(a) A person who received more than twenty-five percent (25%) of the cost of supporting himself from any person other than an agency of the government shall not be considered an "emancipated minor".

(3) "minor" means male or female person who has not obtained the age of *nineteen (19)* years. "Minor."

(4) "qualified person" means person legally qualified to determine his own domicile. "Qualified person."

(5) "resident student" means: "Resident student."

(a) A student who has been domiciled in Montana for one (1) year immediately preceding registration at any unit for any term or session for which resident classification is claimed. Attendance as a full or part-time student at any college, university, or other institution of higher education shall not alone be sufficient to qualify for residence in Montana.

(b) Any graduate of a Montana high school whose parents, parent, or guardian have resided in Montana at least one (1) full year of the two (2) years immediately preceding his graduation from high school. Such classification shall continue for not more than four (4) academic years if the student remains in continuous attendance at a unit."

Section 18. Section 81-407, R.C.M. 1947, is amended to read as follows: Amending clause.

"81-407. **Who may lease — how much and for what length of time.** No persons shall be qualified to lease state lands except one who is the head of a family unless he or she has attained the age of *nineteen (19)* years. Any such person and any association, company or corporation authorized to hold lands under lease may lease state lands, and there may be included under one lease, tracts of lands embracing more than one (1) section. Qualifications to lease state lands.

HeinOnline -- 1971 vol. II 1001 1971

Limitations on term.

Expiration.

Notice.

Rental increase.

Any such person, association, company or corporation may hold more than one (1) lease to such lands. No lease to agricultural or grazing lands shall be for a period other than five (5) or ten (10) years. Leases for city and town lots shall not exceed five (5) years. When a lease expires or is canceled the commissioner shall immediately so notify the holder of the lease and all persons who have expressed an interest in leasing the land during, or immediately preceding the term of such expired or canceled lease. If the legislature raises the rentals for state grazing lands during the term of any leases of grazing land hereafter issued which are not issued as a result of competitive bidding the lessee shall, for the years after such increase becomes effective, pay such increase rental and the terms of grazing leases hereafter issued shall so provide."

Amending clause.

Section 19. Section 81-908, R.C.M. 1947, is amended to read as follows:

Qualifications to purchase state lands.

"81-908. **Who may purchase and how much.** State lands shall be sold only to citizens of the United States or to persons who have declared their intentions to become citizens, or to corporations organized under the laws of this state. No person shall be qualified to purchase state land who has not reached the age of *nineteen (19)* years. As far as possible to determine the lands shall be sold only to actual settlers or to persons who will improve the same, and not to persons who are likely to hold such lands for speculative purposes intending to resell the same at a higher price without having added anything to their value. No person or corporation shall be entitled to purchase more than one section of state land, and this area shall not include more than one hundred and sixty (160) acres of land susceptible of irrigation. These limitations as to area and irrigableness shall not apply to lands within a federal irrigation project wherein the Congress of the United States of America now or hereafter authorizes water to be furnished to an area exceeding one hundred and sixty (160) irrigable acres.

Limitations on amount of land.

Sale to other agencies of government.

State lands may be sold to any sovereign state of the United States or to any board of trustees or public corporation or agency of such state created by such state as an agency or political subdivision thereof. Said lands may be purchased in the quantities set forth in this section for use by such state, board of trustees, public corpora-

HeinOnline -- 1971 vol. II 1002 1971

tion, agency, or political subdivision for educational or scientific purposes.

Validation of title.

The title to any state lands which have been heretofore purchased by a sovereign state or a board of trustees or public corporation, agency or political subdivision thereof qualified under the provisions of this act is hereby ratified and confirmed."

Amending clause.

Section 20. Section 93-1301, R.C.M. 1947, is amended to read as follows:

Qualifications to act as juror.

"93-1301. **Who competent to act as juror.** A person is competent to act as a juror if:

1. A citizen of the United States of the age of *nineteen (19)* years, who shall have been a resident of the state one (1) year, and of the county ninety (90) days before being selected and returned.

2. In posseession of natural faculties, and of ordinary intelligence and not decrepit.

3. Possessed of sufficient knowledge of the English language.

4. Assessed on the last assessment roll of the county on property belonging to him or her."

Amending clause.

Section 21. Section 93-100-2, R.C.M. is amended to read as follows:

Change of name—petition to district court.

"93-100-2. **Application for change of name — how made.** All applications for change of names must be made to the district court of the county where the person whose name is proposed to be changed resides, by petition, signed by such person; and if such person is under *nineteen (19)* years of age, by one of the parents, if living, or if both be dead, then by the guardian; and if there be no guardian, then by some near relative or friend. The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and the reason for such change of name; and must, if the father of such person be not living, name, as far as known to the petitioner, the near relatives of such person, and their place of residence. Any religious, benevolent, literary, scientific corporation, or any corporation bearing or having for its name, or using or being known by the name of, any benevolent or charitable order

Persons under 19.

Required allegations.

Change of corporate name.

HeinOnline -- 1971 vol. II 1003 1971

or society, may, by petition, apply to the district court of the county in which its articles of incorporation were originally filed, or in which the property of such corporation is situated, for a change of its corporate name. Such petition must be signed by a majority of the directors or trustees of the corporation, and must specify the date of the formation of the corporation, the name proposed, and the reason for such change of name. Upon filing such petition on behalf of such corporation, the same proceedings shall be had as upon applications for changes of names of natural persons, and no banking corporation hereafter organized shall adopt or use the name of any other banking corporation or association, or of any friendly association."

Signatures.

Proceedings.

Use of banking corporation name.

Amending clause.

Section 22. Section 94-35-106, R.C.M. 1947, is amended to read as follows:

Penalties for selling liquor to persons under 19.

"94-35-106. **Intoxicating liquors — penalty for giving or selling to any person under the age of nineteen (19) years.** Any person who shall sell, give away or dispose of intoxicating liquor to any persons under the age of *nineteen (19)* years, shall for the first offense be subject to punishment not exceeding five hundred dollars ($500) fine or by imprisonment not to exceed six (6) months in the county jail, or both such fine and imprisonment, and upon conviction for the second and subsequent offenses he shall be subject to punishment by fine of not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) or by imprisonment in the state penitentiary for not less than one (1) year nor more than five (5) years, or by both such fine and imprisonment. Nothing herein contained shall prevent the furnishing of intoxicating liquor to a person under *nineteen (19)* years of age upon any physician's prescription where authorized by the laws of this state or the United States, nor the furnishing of wine for sacramental purposes."

Exception—physician's prescription.

Amending clause.

Section 23. Section 94-35-106.2, R.C.M. 1947, is amended to read as follows:

Possession of liquor by person under 19—misdemeanor.

"94-35-106.2. **Possession of beer or liquor by minor — misdemeanor.** Any person who shall not have reached the age of *nineteen (19)* years and who shall have in his or her possession beer or liquor, shall be guilty of a misdemeanor."

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HeinOnline -- 1971 vol. II 1004 1971

CHAPTER NO. 241

An Act to Amend Sections 66-1501, 66-1502, 66-1504, 66-1506, 66-1507, 66-1508, 66-1509 and 66-1521, R.C.M. 1947, (Montana Pharmacy Law) by Substituting the Word 'Intern' for 'Assistant Pharmacist'; and to Amend Sections 66-1504 and 66-1506, Providing for the Regulation of Interns in Accordance with National Standards, and to Amend Section 66-1506 to Increase the Registration Fee for Examination, and to Amend Section 66-1507 to Increase the Renewal of Registration Fee, to Provide a Penalty for Late Renewal, and to Reduce the Reinstatement Period.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-1501, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"66-1501. **Sale of drugs, medicines, etc., unlawful except as provided herein.** (a) It shall be unlawful for any person to compound, dispense, vend or sell at retail, drugs, medicines, chemicals or poisons in any place other than a pharmacy, except as hereinafter provided. Unlawful sale of drugs, medicines, chemicals, poisons.

(b) It shall be unlawful for any proprietor, owner or manager of a pharmacy, or any other person to permit the compounding or dispensing of prescriptions or the vending or selling at retail of drugs, medicines, chemicals, or poisons in any pharmacy except by a registered and licensed pharmacist or by an *intern* in the temporary absence of such pharmacist. Sale except by registered and licensed pharmacist or intern.

(c) It shall be unlawful for any person falsely to assume or pretend to the title of pharmacist or *intern,* unless such person has a license as such issued and in force pursuant to the terms of this act. License required.

(d) It shall be unlawful for any person other than a licensed and registered pharmacist, *or a* licensed and registered *intern* to compound, dispense, vend or sell at retail, drugs, medicines, chemicals or poisons, except as in this act provided. Sale without license unlawful.

Section 2. Section 66-1502, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"66-1502. **Terms defined as used in this act.** (a) the term "pharmacy" shall mean a drug store or other es- Definitions. "Pharmacy."

HeinOnline -- 1971 vol. II 1005 1971

tablished place regularly registered by the state board of pharmacy, in which prescriptions, drugs, medicines, chemicals, and poisons are compounded, dispensed, vended or sold at retail.

"Pharmacist." (b) The term "pharmacist" shall mean a natural person licensed by the state board of pharmacy to prepare, compound, dispense and sell drugs, medicines, chemicals and poisons, and such person shall be entitled to affix to his name the term REG-PH.

"Intern." (c) The term *'intern'* shall mean a natural person licensed as such by the state board of pharmacy to prepare, compound, dispense and sell drugs, medicines, chemicals and poisons in a pharmacy having a pharmacist in charge.

"Drug." (d) The term "drug" means (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; and (2) articles intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2) or (3); but does not include devices or their components, parts or accessories.

"Medicine." (e) The term "medicine" shall mean any remedial agent which has the property of curing, preventing, treating or mitigating diseases, or which is used for such purpose.

"Poisons." (f) "Poisons" shall mean any substance, which when introduced into the system, either directly or by absorption, produces violent, morbid or fatal changes or which destroys living tissue with which it comes in contact.

"Chemical." (g) "Chemical" means all medicinal or industrial substances, whether simple or compound or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

"Board." (h) The term "board" or "state board of pharmacy" shall mean the Montana state board of pharmacy.

"Secretary." (i) The term "secretary" shall mean the secretary of the Montana state board of pharmacy.

HeinOnline -- 1971 vol. II 1006 1971

"Person." (j) The word "person" shall be construed to include every individual, co-partnership, corporation or association, unless the context otherwise requires.

Gender. (k) Masculine words shall include the feminine and neuter and the singular includes the plural.

"Wholesale." (l) The term "wholesale" shall mean and include any sale for the purpose of resale.

"Commercial purposes." (m) The phrase "commercial purposes" shall mean the ordinary purposes of trade, agriculture, industry and commerce, exclusive of the practices of medicine and pharmacy.

"Prescription." (n) The term "prescription" shall mean an order given individually for the person for whom prescribed directly from the prescriber to the furnisher or indirectly to the furnisher by means of an order signed by the prescriber and shall bear the name and address of the prescriber, his license classification, the name of the patient, the name and the quantity of the drug or drugs prescribed, the directions for use and the date of its issue. These stipulations would apply to both written and telephoned prescriptions."

Amending clause. Section 3. Section 66-1504, R.C.M. 1947, is hereby amended to read as follows:

Montana state board of pharmacy. "66-1504. **Montana state board of pharmacy — powers of board.** (a) Organization of board, officers. The board shall annually elect from its members a president, a vice-president, a treasurer, and a pharmacist, who may or may not be a member, as secretary.

Annual election.

Powers and duties of board. (b) Powers and duties of board of pharmacy. The Montana state board of pharmacy shall have power, and it shall be its duty:

Regulation of practice. (1) To regulate the practice of pharmacy in the state of Montana subject to the provisions of this act.

Minimum equipment. (2) To determine the minimum equipment necessary in and for a pharmacy and drug store.

Regulation of sales. (3) To regulate, under therapeutic classification, the sale of drugs, medicines, chemicals and poisons and their labeling.

HeinOnline -- 1971 vol. II 1007 1971

Quality.

(4) To regulate the quality of all drugs and medicines dispensed in this state, using the United States pharmacopoeia and the national formulary, or any revisions thereof, as the standards.

Inspection.

(5) To enter and inspect by its duly authorized representative at any reasonable times any and all places where drugs, medicines, chemicals or poisons are sold, vended, given away, compounded, dispensed or manufactured. It shall be a misdemeanor for any person to refuse to permit or otherwise prevent such representative from entering any such places and making such inspection.

Misdemeanor.

Examination and licensing—pharmacists, interns, pharmacies.

(6) To examine, license and register as pharmacists all applicants whom the board shall deem qualified as such as prescribed herein. *To regulate the practice of interns in accordance with national standards.* To license pharmacies and certain stores, and to issue certificates of "certified pharmacy" as in this act provided.

Revocation of license for cause after notice and hearing.

(7) To revoke temporarily or permanently, upon fair hearing, after reasonable notice of formal charges have been served, licenses issued by it to any pharmacist or *intern* whenever the holder of such license has obtained the same by false representations or fraud of any character or shall be an habitual drunkard or addicted to the use of narcotic drugs, or shall have been convicted of a felony, or shall have been convicted of violating the pharmacy law, or shall have been found guilty by the board of incompetency in the preparation of prescriptions, or guilty of gross immorality affecting the discharge of his duties as a pharmacist or assistant subject to the right of any person whose license may be revoked to review by the district court of the proper county on any question of law and fact.

Right of review by district court.

Reports.

(8) To report as provided in section 82-4002.

Assistants.

(9) To employ necessary assistants, and make rules for the conduct of its business.

Other duties and powers.

(10) To perform such other duties and exercise such other powers as the provisions of the act may require.

Uniform rules and regulations.

(11) For the purposes aforesaid, it shall also be the duty of the board to make and publish uniform rules and regulations not inconsistent herewith, for carrying out and enforcing the provisions of the act."

HeinOnline -- 1971 vol. II 1008 1971

Section 4. Section 66-1506, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"66-1506. **Examination of applicants for registration — fees — certificates.** (a) The board shall meet at least once a year to examine applicants for registration as pharmacists and *interns* and to transact its other business, giving reasonable notice of all examinations by mail, to all known applicants therefor. The secretary shall record the names of all persons examined by the board together with the grounds upon which the right of each to examination was claimed and also the names of all persons registered by examination or otherwise. The fee for any examination shall be *twenty-five dollars ($25)* which fee may, in the discretion of the board, be returned to applicants not taking the examination.

Annual examination of applicants for registration as pharmacists and interns.

Records.

Fee $25.

(b) Upon again making payment of such fee any applicant who fails may be entitled to take the next succeeding examination free of charge.

Succeeding examination.

(c) Fees for registration by reciprocity shall be fifty dollars ($50).

Reciprocity fee $50.

Qualifications for examination. To be entitled to examination by the board as a pharmacist, the applicant shall be a citizen of the United States, of good moral character, at least twenty-one (21) years of age, and shall be a graduate of the school of pharmacy of the state university of Montana or of a college or school of pharmacy recognized and approved by, or a member, of the American association of colleges of pharmacy, but such applicant shall not receive a *registered pharmacist's* license until he has *complied with the internship requirements established by the state* board of pharmacy. During this *period,* provided applicant has passed such examination, he shall be licensed as an *intern* only.

Qualifications of applicants.

Pharmacist.

Internship required.

Intern's license.

Reciprocity. The board may, in its discretion, grant registration without examination, to any pharmacist licensed by the board of pharmacy or a similar board of another state which accords similar recognition to licensees of this state, provided the requirements for registration in such other state are, in the opinion of the board, equivalent to the requirements herein provided. Every person licensed and registered under this act shall receive from the state board of pharmacy an appropriate certificate attesting the fact as it may be which

Reciprocal registration.

Certificate.

HeinOnline -- 1971 vol. II 1009 1971

Display.

certificate shall be conspicuously displayed at all times in his place of business. If the holder be entitled to manage or conduct a pharmacy in the state for himself or another, the fact shall be set forth in the certificate.

Persons holding certificates—examination not required.

Pharmacists or *interns* not required to be examined or to register anew under this act. Persons, who, at the time of the enactment of this law, hold certificates of registration as pharmacists, or *interns,* granted by the state board of pharmacy of this state, shall not be required to submit to examinations or to register anew under this law, but all such persons shall apply for and secure annual renewals of their present registration as provided in this act, and in all other respects be amenable to and governed by the provisions of this act and the rules and regulations of the board from time to time promulgated under this act."

Annual renewal.

Amending clause.

Section 5. Section 66-1507, R.C.M. 1947, is hereby amended to read as follows:

Annual renewal fee $15 due June 30.

"66-1507. **Annual renewal of registration fees.** Every person licensed and registered by the board shall annually pay to the board *on or before the 30th day of June,* a renewal of registration fee of *fifteen dollars ($15). Any default in the payment of a renewal fee for a period of thirty days after the date the same is due shall increase the renewal registration fee to the sum of thirty dollars ($30).* It shall be unlawful for any such person who refuses or fails to pay such renewal fee to practice pharmacy in this state. The practice of pharmacy in the state of Montana is declared a professional practice affecting the public health, safety and welfare and is subject to regulation and control in the public interest. Every certificate and renewal shall expire at the time prescribed, not later than one (1) year from its date. *A default in a renewal fee may be reinstateed within one (1) year of such default without examination upon payment of the arrears."*

Default.

Fee $30.

Unlawful to practice.

Expiration date.

Reinstatement within one year.

Amending clause.

Section 6. Section 66-1508, R.C.M. 1947, is hereby amended to read as follows:

Board may license retailer of packaged drugs—fee $5.

"66-1508. **Store license — certified pharmacy license — suspension or revocation.** (a) The state board of pharmacy shall upon application upon such forms as it may prescribe and upon the payment of an annual fee of five dollars ($5), license stores other than a pharmacy

HeinOnline -- 1971 vol. II 1010 1971

wherein may be sold ordinary household or medicinal drugs prepared in sealed packages or bottles by a manufacturer, qualified under the laws of the state wherein such manufacturer resides. The name and address of such manufacturer shall appear conspicuously on each package sold by such licensee. It shall be unlawful for any such store to sell, deliver or give away such household medicinal drugs, without first having secured such license and thereafter keeping the same in force by proper renewal, provided, also, that nothing herein shall be construed to prevent any vendor from selling any patent or proprietary medicine in the original package when plainly labeled, nor such nonmedical articles as are usually sold by such vendors.

Unlawful to sell without license.

Exception.

(b) The state board of pharmacy shall require and provide for the annual registration and licensing of every pharmacy now or hereafter doing business within this state within the meaning of the act. Upon presentation of evidence satisfactory to the board and upon application upon such form as the board may prescribe and upon the payment of an annual fee of twenty dollars ($20), the board shall license any pharmacy as a "CERTIFIED PHARMACY," provided, however, that such license shall be granted only to such pharmacies as are operated by registered pharmacists or registered *interns* qualified as herein prescribed. Such license must be exposed in a conspicuous place in the pharmacy for which it is issued, and shall expire on the thirtieth day of June following the date of issue. It shall be unlawful for any person to conduct such pharmacy, to use the word pharmacy to identify his business or to use the word pharmacy in any advertising unless such license has been duly issued and is in full force and effect.

Board shall require annual registration and licensing of pharmacies.

Application.

Fee $20.

"Certified pharmacy."

Display.

Expiration.

Unlawful without license.

(c) The board may suspend, revoke or refuse to renew any store or pharmacy license obtained by false representation, or fraud of any character, or when the pharmacy for which the license shall have been issued is kept open for the transaction of business without a pharmacist in charge thereof, or when the person to whom the license shall have been granted has been convicted for violation of any of the provisions of the act or for a felony, or convicted for any violation of the Federal Food, Drug and Cosmetic Act of June 25, 1938, (52 United States Statutes at Large, 1040 through 1059; Title 21, United States

Revocation for cause.

HeinOnline -- 1971 vol. II 1011 1971

Code, sections 301-332 as from time to time revised, amended, and supplemented), or, if a natural person, whose pharmacist or *intern* license has been revoked, or when the store or pharmacy is conducted in violation of the provisions of this act. Before any license can be revoked the holder thereof shall be entitled to a hearing by the board after reasonable notice, and judicial review of the action of the board."

Prior notice hearing, and judicial review.

Amending clause.

Section 7. Section 66-1509, R.C.M. 1947, is hereby amended to read as follows:

Petition to district court.

"66-1509. **Judicial review of acts of board.** (a) Review by the district court of any order revoking either permanently or temporarily a license of any pharmacist or *intern,* or any store or pharmacy, or any order, decision or finding of the board shall be made by petition in writing filed with the clerk of the district court of the county wherein the pharmacist or *intern,* store or pharmacy, or other affected person or business was operating at the time of the revocation of any such license, or at the time of such order, decision or finding. The petition shall concisely state the facts and order complained against.

Order setting hearing.

20 days.

Service on board.

3 days.

Answer.

5 days.

(b) Upon the filing of said petition an order shall be made by the district judge setting a time for hearing on said petition not less than twenty (20) days thereafter and directing service of the petition upon the secretary of the board not less than three (3) days thereafter. The board must file and serve answer on the merits not less than five (5) days before the hearing.

Court order.

Appeal to supreme court within 60 days.

(c) The court shall have power to sustain the board's action or annul the same, or order the board to act further or to restore any revoked license. Appeals from the district court's action to the supreme court may be taken at any time within sixty (60) days after the entry of the final order or judgment of the court."

Amending clause.

Section 8. Section 66-1521, R.C.M. 1947, is hereby amended to read as follows:

Attorney general.

"66-1521. **Attorney general to be attorney for state board of pharmacy — prosecutions — secretary to assist in enforcement — duties of county attorneys.** The attorney general of the state of Montana shall be the attorney for the Montana state board of pharmacy but said board may in its discretion employ other counsel. The secretary

Other counsel.

HeinOnline -- 1971 vol. II 1012 1971

of the Montana state board of pharmacy shall, under such rules and regulations as the board may prescribe, assist the board and the attorney general or other counsel in the administration and enforcement of this act. It shall be the duty of the county attorney of any county wherein any offense hereunder is committeed to prosecute the offender. The board, its secretary or the county attorney is authorized to examine the books of any manufacturer, druggist, storekeeper, wholesale dealer, pharmacist, *intern* or pharmacy within the state for the purpose of acquiring information to aid in prosecutions hereunder.

Duty of county attorney.

Right to examine books.

Purpose.

Approved March 9, 1971

CHAPTER NO. 242

An Act Authorizing the Highway Commission to Grant Certain Employees of the State Highway Commission the Power of Arrest in Specified Instances, Providing for Rules and Regulations, Establishing Qualifications to Accept Bail, Issue Summons, File Complaints, and Providing for Cooperation with Other Peace Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The state highway commission is hereby empowered to appoint employees as peace officers to carry out the provisions expressly set forth in this act. Such employees so selected shall include only the gross vehicle weight division supervisor, scale supervisor, and scalemen. Each employee so appointed shall be issued a certificate of appointment and execute an oath of office which shall be entered into the records of the commission.

Power of state highway commission to appoint certain peace officers.

Section 2. The highway commission shall provide such training as required to qualify said employees to competently perform their duties under this act and shall establish such rules and regulations as are required and necessary for qualification of said employees as peace officers.

Training.

Rules and regulations.

Section 3. No employee shall be authorized to make arrests until he has successfully completed such training as required by the highway commission.

Arrests forbidden.

Section 4. Qualified employees shall have authority to make arrests throughout the state of Montana only

Authority to make arrests.

HeinOnline -- 1971 vol. II 1013 1971

Official uniform and badge.
Firearms.

when dressed in official uniform and displaying the official badge authorized by the highway commission. Authorized employees may not carry firearms unless officially attired.

Right to inspect vehicle documents.

Section 5. Employees of the state highway commission designated under this act shall be empowed when officially dressed to make reasonable inspection of vehicle registration receipts, state highway commission receipts and registrations, special permits, and such other documents as may be required to be carried in or for a vehicle traveling on the public highways of Montana.

Identification badge.
Uniform dress.

Section 6. Employees of the state highway commission engaged in the enforcement of this act shall wear and prominently display an identification badge or device with the employee's name and title shown thereon. The state highway commission may in its discretion authorize uniform dress for state highway commission employees engaged in the enforcement of this act.

"Public highway" defined.

Section 7. The term "public highways" are highways as defined in section 32-2114, R.C.M., 1947, amended.

Authority to make arrests.
Violations.

Section 8. Authorized employees of the state highway commission shall have authority to make arrests for violations of the following statutory provisions only:

(1) Section 32-1122 through section 32-1130, R.C.M., 1947, amended.

(2) Section 32-3201 through section 32-3203, R.C.M., 1947, amended.

(3) Section 32-3301 through section 32-3316, R.C.M., 1947, amended.

(4) Section 32-3401 through section 32-3406, R.C.M., 1947, amended.

(5) Section 53-118.1 through section 53-118.4, R.C.M., 1947, amended.

(6) Section 53-119.1, R.C.M., 1947, amended.

(7) Section 84-1833, R.C.M., 1947, amended.

(8) Section 84-1841 through section 84-1844, R.C.M., 1947, amended.

(9) Section 84-6601 through section 84-6605, R.C.M., 1947, amended.

HeinOnline -- 1971 vol. II 1014 1971

Said employees shall have no authority of arrest other than herein specified.

Duty to cooperate.

Section 9. The employees of the state highway commission shall cooperate with other law enforcement agencies.

Duty on making arrest—summons.

Section 10. **Duty of Authorized Employee upon making an arrest—Power to fix and accept bail—Fees of Justices of Peace.** Authorized employees, upon making an arrest, shall deliver to the offender a form of summons describing the nature of the offense with instructions thereon for the offender to report to the nearest justice of the peace, the authorized employee has the right to accept a deposit for appearance justifiable for the offense charged. The person arrested may be detained for a reasonable time for the purpose of issuing the summons. In the event the authorized employee accepts bail, he shall give a signed receipt to the offender setting forth the amount received. The authorized employee shall then deliver the bail money to the justice of the peace before whom the offender is to appear, the justice of the peace shall give a receipt to the authorized employee for the amount of bail money delivered. After filing of the complaint and appearance of the defendant, the justice of the peace shall assume jurisdiction and may set, fix and accept further appearance bail bond.

Appearance deposit.

Receipt for bail.

Delivery to justice of the peace.

Receipt.

Jurisdiction.

Fees allowed justices of the peace.

For the purpose of this act only, the fees of justices of the peace in all offenses in which the statutory fine is five dollars ($5) or less, shall be one dollar ($1), but if the statutory fine is in excess of five dollars ($5), the justices of the peace shall be permitted the fee now prescribed by law; provided that no additional fees shall be paid justices of the peace where salaries are fixed by law.

Approved March 9, 1971.

CHAPTER NO. 243.

An Act to Require Recording of the School District of Residence When Registering electors; and Amending Sections 23-3023 and 23-3027, R.C.M., 1947, Providing for Precinct Registers.

HeinOnline -- 1971 vol. II 1015 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Registrar shall record school district of voter.

Section 1. In the discretion prescribed by section 23-3004, R.C.M., 1947, the county registrar shall record the resident school district of each person registering to vote to allow the preparation of registered elector lists for each school district of the county.

Amending clause.

Section 2. Section 23-3023, R.C.M., 1947, is amended to read as follows:

Printed list of registered electors.

"23-3023. **Printing of list of electors shown on precinct registers.** (1) The registrar shall have a list printed of all registered electors shown on the precinct registers of the county *or* city ten (10) days or more preceding any election.

Requirements.

(2) The list shall show the name of the elector in full, the number and street of his residence if he resides within a city, his post-office address if he resides outside a city, and the registry number.

Posting of copy 10 days or more.

(3) Ten (10) days or more before any election, a copy of the list of registered voters shall be posted in each precinct. Sufficient copies of the lists shall be retained by the registrar and furnished to an elector upon request.

No nominations for city election.

List not printed or posted.

(4) If no declarations of nomination have been filed forty (40) days before a primary election of city offices, the city clerk shall immediately notify the registrar in writing and the list of registered electors for the city shall not be printed or posted.

General election supplemental list.

(5) The list of registered voters prepared for a primary election may be posted and used for the general election only if a supplemental list giving the names of electors who have registered after the first list was prepared is printed and posted.

Expenses.

(6) The expense of printing this list shall be paid by the county *or* city in which the election is to be held."

Amending clause.

Section 3. Section 23-3027, R.C.M., 1947, is amended to read as follows:

Registrar shall charge 3c per name and expenses.

"23-3027. **Charges to city or school district—warrant —when no precinct registers required.** (1) For each name entered on a precinct register prepared for a city or school district, the register shall charge the city or school district three cents ($.03). He shall also charge

HeinOnline -- 1971 vol. II 1016 1971

the actual expense incurred on account of the city or school district.

(2) The council or board of school trustees shall order a warrant drawn for the expenses specified in subsection (1) of this section within thirty (30) days after notification of the charges. Warrant within 30 days.

(3) If no general city election is required, the registrar shall not prepare precinct registers. Exception—no city election.

(4) If there are only as many candidates nominated as there are vacancies on a first class school district board of trustees, the registrar shall not prepare precinct registers. Candidates equal vacancies.

(5) Within two (2) days after nominations are legally closed, the city clerk or clerk of a first class school district shall notify the registrar when no precinct registers are required." Duty to notify registrar.

Approved March 9, 1971.

CHAPTER NO. 244.

An Act Amending Sections 32-3707 and 53-118, R.C.M., 1947, to Authorize the Use of Dealers' License Plates by Special Mobile Equipment Dealers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-3707, R.C.M., 1947, is amended to read as follows: Amending clause.

"32-3707. **Special mobile equipment—exemption from registration and payment of fees and charges—identification plate—application—fee—publicly owned special mobile equipment.** (1) A person, firm, partnership, or corporation who owns, leases, or rents special mobile equipment as defined in section 53-642 and occasionally moves that equipment on, over, or across the highways of the state, shall not be subject to registration of that equipment or be required to pay the fees and charges provided for in the chapter "State Finance" [chapter 32 to 35 of this title]. Prior to any movement on the highways, however, each piece of equipment shall display an equipment identification plate *or a dealers' license plate* attached thereto. Special mobile equipment exempt from registration. Display of plates required on highway.

HeinOnline -- 1971 vol. II 1017 1971

Annual application. (2) Annual application for the identification plate shall be made to the county treasurer before any piece of equipment is moved on the highways. Application shall Form. be made on a form furnished by the registrar of motor Fee $5. vehicles, together with the payment of a fee of five dollars ($5); provided, that such equipment for which a special mobile equipment plate is sought, shall be subject Assessment of tax. to the assessment of personal property taxes either on the date application is made for such plate, if that date falls between the first day of January and the first Monday of March, or on the first Monday of March, provided Condition precedent—payment of tax. further, that it is a condition precedent to the issuance of a special mobile equipment plate that the personal property taxes so assessed against the special mobile County road fund. equipment, be paid. The fees collected under this act shall belong to the county road fund.

Plates expire March 31. (3) The identification plate shall expire on March 31 of each year.

Exemptions. (4) Publicly owned special mobile equipment, and implements of husbandry used exclusively by an owner in the conduct of his own farming operations, are exempt from the provisions of this section."

Amending clause. Section 2. Section 53-118, R.C.M., 1947, is amended to read as follows:

Dealer's license required. "53-118. **Application for dealer's license.** Every person, firm, corporation, or association who, for commission or profit, engages in the business of buying, selling, exchanging or acting as a broker of new motor vehicles, Exceptions. used motor vehicles, trailers, (except trailers having an unladen weight of less than five hundred (500) pounds, semitrailers *or special mobile equipment as defined in section 53-642* and qualifies under subparagraph (f) of this section, shall cause to be filed, by mail or otherwise, in the office of the registrar of motor vehicles, a verified Application. application for licensing as a dealer on a blank to be Form. furnished by the registrar of motor vehicles for that purpose, and containing the information therein required. Verification by highway patrol. The application and all of the information therein contained shall be verified by the Montana highway patrol. Fee. Each application must be accompanied by the license fee Annual renewal. hereinafter named. Dealer's license must be renewed and paid for annually, and an application for relicensing must January 1. be filed not later than January first of each year. To

HeinOnline -- 1971 vol. II 1018 1971

qualify for licensing and the issuance and use of "D," "UD," or "DTR" plates, as hereinafter provided, the applicant must furnish the following information and qualify under the following provisions:

Required information and qualifications.

(a) The name under which the business is conducted;

(b) Location of premises (street, address, city, county and state) where records are kept, sales are made and stock of motor vehicles displayed;

(c) Name and address of all owners or persons having an interest in the business; provided, however, that in the case of a corporation, the names and addresses of the president and secretary thereof will be sufficient;

(d) Name and make of all vehicles handled, if factory franchised or selling under a written agreement with a manufacturer, importer or distributor;

(e) Whether or not used vehicles are handled exclusively;

(f) A certificate to the effect that the applicant is a bona fide dealer in motor vehicles, trailers, semitrailers *or special mobile equipment;* and that the applicant if a dealer in new motor vehicles, is recognized by a manufacturer, importer or distributor as a dealer in particular makes of new motor vehicles.

(g) Other information required by the registrar to efficiently administer this law.

Bond required $5,000.

The applicant for a dealer's license shall also file with his application a good and sufficient bond in the sum of five thousand dollars ($5,000), and the bond shall be conditioned that the applicant shall conduct his business in accordance with the requirements of the law. All bonds shall run to the state of Montana and shall be approved by the registrar of motor vehicles and filed in his office and shall be renewed annually.

Approval.

Annual renewal.

Requirements.

The registrar of motor vehicles shall not register or license as a dealer any applicant for the sale of new motor vehicles at retail unless such applicant owns, leases or rents a permanent building wherein he shall conduct his business and who has a dealer's franchise from a manufacturer of motor vehicles. A private residence, tent, or temporary building is not a sufficiently permanent place of business within the meaning of this section.

Permanent place of business for sale of new cars—dealer's franchise.

HeinOnline -- 1971 vol. II 1019 1971

Permanent place of business for sale of used cars.

The registrar of motor vehicles shall not register or license any applicant as a dealer in used cars unless such applicant furnishes sufficient evidence to the registrar that he has a building or lot to provide display of merchandise, a sign indicating the firm name and headquarters as the principal place of business.

Upon making such application, the applicant shall pay to the registrar of motor vehicles, in addition to the fees required of dealers under the provisions of section 53-122, a fee of five dollars ($5). Upon receipt of the application, fee and bond, as provided above, the registrar of motor vehicles shall examine the application, and may, prior to issuing a license, make individual investigation of the truth of the statements contained in the application. If the registrar of motor vehicles is satisfied that the applicant qualifies for the issuance of a dealer's license under the provisions of this act, he may thereupon issue the same.

Fee $5.

Registrar may investigate.

Registrar may issue license.

Required records of used cars.

Every dealer licensed under this section shall keep a book or record of the purchase, sale or exchange or receipt for the purpose of sale, of any used vehicle, a description of such vehicles, together with the name and address of the seller, of the purchaser, and of the alleged owner or other person from whom such vehicle was purchased or received, or to whom it was sold or delivered, as the case may be. Such description in the case of motor vehicles shall also include the engine number, if any, the maker's number, if any, chassis number, if any, and such other numbers or identification marks as may be thereon, and shall include a statement that a number has been obliterated, defaced or changed, if such is the fact. In the case of a trailer, semitrailer *or special mobile equipment,* the record shall include the manufacturer's number and such other numbers or identification marks as may be thereon. He shall also have in his possession a duly assigned certificate of title from the owner of said motor vehicle in accordance with the provisions of another section of this act, from the time when the motor vehicle is delivered to him until it has been disposed of by him.

Assigned certificate of title.

Dealer's license number.

Upon the licensing of a dealer as a new motor vehicle dealer, used motor vehicle dealer, or trailer, semitrailer *or special mobile equipment* dealer, the registrar of motor vehicles shall assign to such dealer a distinctive serial license number as a dealer and furnish every qualified deal-

Motor vehicle plates.

HeinOnline -- 1971 vol. II 1020 1971

er in motor vehicles with not less than two (2) sets of number plates, and as many more as the fee the dealer pays entitles the dealer to, which number plates shall be similar to number plates furnished to owners of motor vehicles but shall bear thereon, in addition to the serial number assigned such dealer, the letter "D" if the dealer sells new motor vehicles (including trucks and trailers) or new and used motor vehicles (including trucks and trailers); the letters "UD" if the dealer sells used motor vehicles (including trucks and trailers) only; and the letters "DTR" if the dealer sells trailers, semitrailers *or special mobile equipment* (new or used) only. Only new motor vehicle dealers' license plates bearing the letter "D" shall be assigned if both new and used motor vehicles (including trucks and trailers) are sold, and only one license fee shall be required of any one dealer. The registrar of motor vehicles shall cause to be placed on each set of license plates issued to a dealer, a serial number assigned to each dealer and the actual number of license plates issued to each dealer. The number of the dealer shall follow the prefix of the county, and the number of plates issued the dealer shall follow the prefix of the county and the number of the dealer, the dealer's number to be separated from the county prefix by a dash, and the number of plates issued to a dealer to be separated from the dealer's number by a dash, as follows: Dealer number 4 in Lewis and Clark County would be numbered 5-4, and if the dealer were issued three sets of plates, they would be numbered consecutively as follows: 5-4-1, 5-4-2 and 5-4-3. Dealers properly licensed under this section are authorized to use and display, dealer's license plates on any motor vehicle held for sale or used principally in the conduct of the dealer's business in selling or demonstrating motor vehicles. No dealer's license plate shall be used or displayed on vehicles normally used for hire, lease or rental or for purposes not incident to the business of a motor vehicle dealer. If it shall appear to the satisfaction of the registrar of motor vehicles, from information furnished to him by the sheriff or any other law enforcement officer, that any such dealer has been improperly licensed, has used the dealer's license in a manner other than the one permitted above, or is not qualified as a dealer under the requirements of this section, the registrar of motor vehicles may revoke such dealer's license. No person, firm, corporation or

Dealer plates—required information.

Use and display.

Uses forbidden.

Revocation.

HeinOnline -- 1971 vol. II 1021 1971

License required to engage in business.

association shall, for commission or profit, engage in the business of buying, selling, exchanging or acting as a broker of new motor vehicles, trailers or semitrailers unless duly licensed in compliance with this section (except trailers having an unladen weight of less than five hundred (500) pounds).

Penalties for violations.

Any person violating the provisions of this section shall be guilty of a misdemeanor and subject to a fine of not less than two hundred fifty dollars ($250) and not more than five hundred dollars ($500). For the purposes hereof, every sale of a motor vehicle in violation of the provisions of this section shall be deemed a separate offense."

Approved March 9, 1971.

CHAPTER NO. 245.

An Act Amending Section 31-103, R.C.M., 1947, to Authorize the Montana Highway Patrol Board to Make Rules and Regulations; and Providing on Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 31-103, R.C.M., 1947, is amended to read as follows:

Montana highway patrol board—place of business—meetings.

Rules and regulations.

Employment of clerical help and patrol.

Duty to furnish transportation to governor.

"31-103. **Organization — rules and regulations.** The Montana highway patrol board shall maintain a permanent place of business at the state capital and shall meet at least once each month for the purpose of transacting its business *and it may make, promulgate and amend rules and regulations which prescribe procedures and practice requirements of the Montana highway patrol.* The Montana highway patrol shall provide for clerical help, provide for the maintenance of the patrol and for the employment and supervision of the patrol in conformity with the provisions of this act. The Montana highway patrol shall furnish the governor of the state of Montana with automobile transportation upon his request, provided that such transportation shall be limited to travel and transportation of the governor while on official business of the state of Montana."

HeinOnline -- 1971 vol. II 1022 1971

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved March 9, 1971.

CHAPTER NO. 246.

An Act to Amend Section 23-3706, R.C.M., 1947, Relating to the Mailing of an Absentee Ballot to an Elector, Providing for the Use of Protective Inserts and Instructions on Procedures in Instances of Adhesion of the Balloting Material and the Type of Writing Instrument to Be Used to Mark the Absentee Ballot.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 23-3706, R.C.M., 1947, is amended to read as follows: Amending clause.

"23-3706. **Maling ballot to elector—affidavit—electors in the United States service.** (1) Either upon receipt of the application or immediately after the official ballot for the precinct of the applicant's residence has been printed, the registrar, city clerk, or clerk of a first class school district shall send by mail, postage prepaid, whatever official ballots are necessary. Duty to mail official ballots.

(2) The proper officer shall enclose an envelope with the ballots which has written on the front the name, title, and post-office address of the officer sending it, and upon the other side a printed affidavit in a form prescribed by the secretary of state. Return envelope. Affidavit.

(3) Both the envelope in which the ballot is mailed to an elector in the United States service and the return envelope shall have printed across the face two parallel horizontal red bars, each one-quarter (¼) inch wide, extending from one side of the envelope to the other, with an intervening space of one quarter (¼) inch, with the words "Official Election Ballot Material—via Air Mail", between the bars. In the upper right-hand corner shall be printed "Free of U.S. Postage". In the upper left-hand corner shall be blanks sufficient for the recipient to place his return address. All printing on the face of the envelope shall be in red. *The gummed flap of the envelope supplied for the return of the ballot shall be separated by wax paper or other appropriate protective insert.* Markings required on envelopes. Protective insert.

HeinOnline -- 1971 vol. II 1023 1971

Procedure for absentee voters.

Voting instructions provided in subparagraph (5) of this section shall include a procedure to be followed by absentee voters, such as notation of the facts on the back of the envelope duly signed by the voter and witnessing officer, in instances of adhesion of the balloting material.

Return address.

(4) The return address shall be self-addressed to the registrar or city clerk.

Instructions enclosed.

(5) Instructions for voting shall be enclosed with the ballots for electors in the United States service. *Instructions shall include information concerning the type or types of writing instruments which may be used to mark the absentee ballot.''*

Marking instruments.

Approved March 9, 1971.

CHAPTER NO. 247.

An Act to Amend Title 23, Chapter 37, R.C.M., 1947, by Adding a New Section Relating to Absentee Voting and Registration, Providing for the Registration of Electors Whose United States Services or Employment Has Terminated too Late to Register in Person to Vote in the Next Ensuing Election.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section added to Title 23, chapter 37, R.C.M., 1947, to read as follows:

Electors whose United States service has terminated entitled to register up to 12 noon on day before election.

23-3724. **Registration of electors whose United States service or employment has terminated.** Electors in the United States service who have been honorably discharged from the armed forces of the United States or who have terminated their service or employment outside the territorial limits of the United States too late to register at the time when, and place where, registration is required, shall be entitled to register for the purpose of voting at the next ensuing election after such discharge or termination of employment up to 12 noon on the day before the election, provided that said elector shall execute a sworn affidavit qualifying him under this section, to be filed in the office of his registration. County registrar shall provide to the person registering under the provisions of this section, a certificate stating the precinct in which he is entitled to vote which shall

Affidavit of qualification.

Duty to provide certificate.

HeinOnline -- 1971 vol. II 1024 1971

be presented to the election judges of that precinct at the time of voting.

Approved March 9, 1971.

CHAPTER NO. 248.

An Act to Amend Section 23-3720, R.C.M., 1947, Relating to Oaths for Electors in United States Service, Providing for the Administration and Attestation of Such Oaths by any Member of the Merchant Marine of the United States Designated for this Purpose by the Secretary of Commerce, the Head of any Department or Agency of the United States, any Civilian Employee Designated by the Head of Any Department or Agency of the United States as Well as Any Commissioned Officer in Active Service and Any Civilian Official Empowered by State or Federal Law to Administer Oaths.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 23-3720, R.C.M., 1947, is amended to read as follows:

"23-3720. **Oath for elector in United States service.** (1) Any oath required for electors in the United States service to register, request a ballot, or vote, may be administered and attested, within or without the United States, by any commissioned officer in active service, *any member of the merchant marine of the United States designated for this purpose by the secretary of commerce, the head of any department or agency of the United States,* any civilian official empowered by state or federal law to administer oaths, *or any civilian employee designated by the head of any department or agency of the United States.*

Oath required for electors in United States service—attestation.

(2) No official seal is required to be affixed to the oath and neither the elector nor the certifying officer need disclose his whereabouts at the time of taking the oath except to the extent required by the federal post card application."

Seal or address not required.

Approved March 9, 1971.

HeinOnline -- 1971 vol. II 1025 1971

CHAPTER NO. 249.

An Act to Amend Section 23-3718, R.C.M., 1947, Relating to the Definition of "Electors in the United States Service", Providing for the Franchising of Additional Electors.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 23-3718, R.C.M., 1947, is amended to read as follows:

"Elector in the United States service" defined.

"23-3718. **"Elector in the United States service" defined.** "Elector in the United States service" means:

(1) A member of the armed forces in the active service, and his spouse and dependents;

(2) A member of the merchant marine of the United States and his spouse and dependents;

(3) A member of a religious group or welfare agency assisting members of the armed forces of the United States who are officially attached to and serving the armed forces, and his spouse and dependents.

(4) A citizen of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and his spouse and dependents when residing with or accompanying him."

Approved March 9, 1971.

CHAPTER NO. 250.

An Act to Amend Section 23-3721, R.C.M., 1947, Relating to the Use of the Federal Post Card Application by Registrars After Receipt of Such Cards From Electors in the United States Service, Providing for the Acceptance of the Federal Post Card Application as Simultaneous Application for Registration and for Ballot.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 23-3721, R.C.M., 1947, is amended to read as follows:

Receipt of federal post card application.

"23-3721. **Classification of federal post card application.** (1) Upon receipt by the registrar of a federal past card application properly filled out and signed

HeinOnline -- 1971 vol. II 1026 1971

under oath, the registrar shall classify the application according to the precinct in which the elector resides and arrange the cards in each precinct in alphabetical order.

Duty of registrar to classify and file.

(2) The registrar shall, upon receipt of any federal post card application, immediately enter upon the official register of the county in the proper precinct the full information given by the elector.

Duty to enter in official register.

(3) Immediately upon entry in the official registry of the name of the elector the registrar shall send to him by the fastest mail service available a notice that he has been registered and informing him that in order to secure a ballot he must mail at any time within forty-five (45) days preceding the election another federal post card application to his registrar or city clerk.

Immediate notice to elector to secure ballot.

(4) A federal post card application received from an elector in the United States service within forty-five (45) days preceding an election shall be treated as a simultaneous application for registration and for ballot. Where the elector is already registered the federal post card application shall be treated as an application for a ballot."

Application received within 45 days preceding election.

Approved March 9, 1971.

CHAPTER NO. 251.

An Act Amending Section 94-1436, R.C.M., 1947, to Increase the Length of Time Itemized Statements of Candidates for Public Office Must Be Held as Public Records.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 94-1436, R.C.M., 1947, is amended to read as follows:

Amending clause.

"94-1436. **Record of statements—copies.** All statements shall be preserved *by the officer with whom they are filed during the term of office* to which they relate, and shall be public records subject to public inspection, and it shall be the duty of the officers having custody of the same to give certified copies thereof in like manner as of other public records."

Statements of candidates must be preserved by filing officer.

Approved March 9, 1971.

HeinOnline -- 1971 vol. II 1027 1971

CHAPTER NO. 252.

An Act Requiring the Licensing of Persons Engaged in Mining Exploration and Related Activities; Requiring Permits for the Conduct of Development, Mining and Related Activities; Providing for the Reclamation of Explored, Developed, and Mined Land; Providing for the Administration and Enforcement of Said Act by the Board of State Lands and Investments; and Providing for an Appeal Procedure; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Statement on mining and reclamation.

Section 1. The extraction of mineral by mining is a basic and essential activity making an important contribution to the economy of the state and the nation. At the same time, proper reclamation of mined land and former exploration areas not brought to mining stage is necessary to prevent undesirable land and surface water conditions detrimental to the general welfare, health, safety, ecology, and property rights of the citizens of the state. Mining and exploration for minerals takes place in diverse areas where geological, topographical, climatic, biological and sociological conditions are significantly different, and reclamation specifications must vary accordingly. It is not practical to extract minerals or explore for minerals required by our society without disturbing the surface or subsurface of the earth and without producing waste materials, and the very character of many types of mining operations precludes complete restoration of the land to its original condition. The legislature finds that land reclamation as provided in this act will allow exploration for and mining of valuable minerals while adequately providing for the subsequent beneficial use of the lands to be reclaimed.

Finding of legislature land reclamation.

Purpose—reclamation of mined lands to beneficial use.

Section 2. The purposes of this act are to provide: (i) that the usefulness, productivity and scenic values of all lands and surface waters involved in mining and mining exploration within the boundaries and lawful jurisdiction of the state will receive the greatest reasonable degree of protection and reclamation to beneficial use; (ii) authority for cooperation between private and governmental entities in carrying this act into effect; (iii) for the recognition of the recreational and aesthetic values of land as a benefit to the state of Montana; and

HeinOnline -- 1971 vol. II 1028 1971

(iv) priorities and values to the aesthetics of our landscape, waters and ground cover. Although both the need for and the practicability of reclamation will control the type and degree of reclamation in any specific instance, the basic objective will be to establish, on a continuing basis, the vegetative cover, soil stability, water condition and safety condition appropriate to any proposed subsequent use of the area.

Definitions.

Section 3. As used in this act, unless the context indicates otherwise: (1) "Surface mining" shall mean and include all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits thereby exposed, including, but not limited to, open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and any and all similar methods by which earth or minerals exposed at the surface are removed in the course of mining. Surface mining shall not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock, or uranium nor excavation or grading conducted for on-site farming, on-site road construction, or other on-site building construction.

"Surface mining."

"Unit of surface mined area."

(2) "Unit of surface mined area" shall mean and include that area of land and surface water included within an operating permit actually disturbed by surface mining during each twelve-month period of time, beginning at the date of the issuance of the permit, and shall comprise and include the area from which overburden and/or minerals have been removed, the area covered by mining debris, and all additional areas used in surface mining or underground mining operations which, by virtue of such use, are thereafter susceptible to erosion in excess of the surrounding undisturbed portions of land.

"Disturbed land."

(3) "Disturbed land" shall mean and include that area of land or surface water disturbed, beginning at the date of the issuance of the permit, and shall comprise that area from which the overburden, and/or minerals have been removed; tailings ponds, waste dumps, roads, conveyor systems, leach dumps, and all similar excavations or covering resulting from said operation and which has not been previously reclaimed under the reclamation plan.

HeinOnline -- 1971 vol. II 1029 1971

"Abandonment of surface or underground mining."

(4) "Abandonment of surface or underground mining" may be presumed when it is shown that continued operation will not resume.

"Underground mining."

(5) "Underground mining" shall mean and include all methods of mining other than surface mining.

"Person."

(6) "Person" shall mean and include any person, corporation, firm, association, partnership or other legal entity engaged in exploration for or development or mining of minerals on or below the surface of the earth.

"Mineral."

(7) "Mineral" shall mean and include any ore, rock or substance, other than oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock or uranium, taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future usage, refinement or smelting.

"Exploration."

(8) "Exploration" shall mean and include all activities conducted on or beneath the surface of lands resulting in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation, as well as all roads made for the purpose of facilitating exploration, except as noted in section 20 and section 24 herein.

"Development."

(9) "Development" shall mean and include all operations between exploration and mining.

"Mining."

(10) "Mining" shall be deemed to have commenced at such time as the operator shall first mine ores or minerals in commercial quantities for sale, benefication, refining, or other processing or disposition or shall first take bulk samples for metallurgical testing in excess of aggregate of ten thousand (10,000) short tons.

"Reclamation plan."

(11) "Reclamation plan" shall mean and include the operator's written proposal, as required and approved by the board for reclamation of the land that will be disturbed, which proposal shall include to the extent practical at the time of application for a developing or operating permit: (a) a statement of the proposed subsequent use of the land after reclamation;

Subsequent use.

Surface restoration.

(b) Plans for surface gradient restoration to a surface suitable for the proposed subsequent use of the land

HeinOnline -- 1971 vol. II 1030 1971

after reclamation is completed, and proposed method of accomplishment;

(c) Manner and type of revegetation or other surface treatment of disturbed areas; Revegetation.

(d) Procedures proposed to avoid foreseeable situations of public nuisance, endangerment of public safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the area; Avoidance of damage.

(e) Method of disposal of mining debris; Debris.

(f) Method of diverting surface waters around the disturbed areas where necessary to prevent pollution of such waters or unnecessary erosion; Diversion of waters.

(g) Method of reclamation of stream channels and stream banks to control erosion, siltation, and pollution; Streams.

(h) Such maps and other supporting documents as may be reasonably required by the director; Maps.

(i) A time schedule for reclamation that meets the requirements of section 9 of this act. Time schedule.

(12) "Vegetative cover" as used in this act shall mean the type of vegetation, grass, shrubs, trees, or any other form of natural cover deemed suitable at time of reclamation. "Vegetative cover."

(13) "Board" shall mean the Board of State Lands and Investments, or such state employee or state agency as may succeed to its powers and duties under this act. "Board."

(14) "Director" or "administrator" shall mean the director of the Board of State Lands and Investments. "Director." "Administrator."

(15) "Small miner" shall mean any person, firm or corporation engaged in the business of mining who does not remove from the earth during any twenty-four (24) hour period material in excess of one hundred (100) tons in the aggregate. "Small miner."

Section 4. The board is charged with the responsibility of administering this act. In order to implement its terms and provisions, the board shall from time to time promulgate such rules and regulations as the board shall deem necessary. The board may delegate such powers, duties and functions to its director and staff members as it Duty of administration. Rules. Delegation to director.

HeinOnline -- 1971 vol. II 1031 1971

Board shall employ supervisors.

deems necessary for the performance of its duties as administrator of ithis act. The board shall employ experienced, qualified persons in the field of mined land reclamation, who for the purpose of this act, are hereinafter referred to as supervisors.

Investigations, research, experiments.

Information.

Section 5. The board shall have the authority to conduct or authorize investigations, research, experiments and demonstrations in reclamation and to collect and disseminate non-confidential information relating to mining.

Cooperation with other agencies.

Use of funds and grants.

Section 6. The board shall cooperate with other governmental and private agencies in this state and other states and agencies of the federal government, and may reasonably compensate them for any services the board requests that they provide. The board may receive federal funds, state funds, and any other funds and, within the limits imposed by the grant, expend them for reclamation of land affected by mining or exploration and for purposes enumerated in section 9 of this act.

Exploration license required.

Annual renewal.

Section 7. (1) Effective sixty (60) days after the date on which the board shall first promulgate its regulations as authorized by section 4 of this act, no person shall engage in exploration or development in the state without first obtaining an exploration license or development permit from the board to do so, such license or permit to be issued for a period of one (1) year from date of issue and to be renewable from year to year on application therefor filed at any time within thirty (30) days next preceding the expiration of the current license or permit and payment of like fee as required for a new license or permit; provided that the applicant for renewal is not then held by the board to be in violation of any provision of this law.

Fee $5.

Agreement to reclaim surface.

Operating permit.

Not in default.

(2) An exploration license shall be issued to any applicant therefor who shall: (i) pay a fee of five dollars ($5) to the board; (ii) agree to reclaim any surface area damaged by the applicant during exploration operations, all as may be reasonably required by the board, unless the applicant shall have applied for and been issued a development or operating permit for the lands so damaged; and (iii) not be in default of any other reclamation obligation under this law.

Nondisclosure of area.

(a) Except as hereafter provided, the holder of such

HeinOnline -- 1971 vol. II 1032 1971

license shall not be compelled to disclose the area of his exploration operations, except where charged with a delinquency in performing reclamation obligations hereunder.

Copies of certificate of claim location to board.

(b) Upon filing of any certificate of claim location as permitted by federal and state mining laws and regulations, the locator shall provide copies of said certificates to the board.

Development permit requirements.

(3) A development permit shall be issued to any applicant therefor that shall meet the following requirements:

Fee $25.

(a) Payment of twenty-five dollars ($25) fee to the board;

Description.

(b) Submit a description of the area within which development is to be conducted;

Map.

(c) Submit a suitable map or aerial photograph showing topographic, cultural and drainage features;

Development methods.

(d) Submit a statement of proposed development methods, i.e., drilling, trenching, etc., and the location of primary support roads and facilities;

Estimate of disturbed acreage.

Map.

(e) Submit an estimate of the acreage expected to be disturbed in the twelve (12) months following issue of the permit, together with a map of the general area of the development operations for a like period. If the board shall, on good cause, consider the operator's estimate of the quantity of surface to be disturbed to be more than twenty percent (20%) below what the board considers correct in the circumstances, it may by order require the operator to increase the amount of his bond accordingly.

Order to increase bond.

Reclamation plan.

(f) Submit a proposed reclamation plan for lands to be disturbed in the next twelve (12) months.

Affidavit of reclaiming.

(g) Submission of an affidavit as may be required by the board showing that any lands disturbed by exploration, development, or mining in the state of Montana by applicant within two years prior to the application for said permit is or is in course of being reclaimed in accordance with the provisions of this act; or submission of an affidavit and such supporting documents and evidence as may be required by the board showing that any lands disturbed by exploration, development, or mining by applicant in the state of Montana during the two

HeinOnline -- 1971 vol. II 1033 1971

(2) years prior to the application for said permit will be restored in accordance with the provisions of this act.

Performance bond. (4) Following approval of a development plan, the operator shall be required to file a performance bond in accordance with provisions of this act.

Employees covered. (5) Employees of persons holding a valid license or permit under this act shall be deemed included in and covered by such license or permit.

Application for waiver. (6) Upon proper application by the holder of an exploration license or development permit, the board may excuse such holder from reclamation obligations with reference to any specified openings or excavations exposing geological indications or phenomena of especial interest, even though the licensee does not apply or have any intention to apply for development license or operating permit for the land in which such openings or excavations have been made.

Operating permit required. Section 8. (1) Effective sixty (60) days after the date on which the board shall first promulgate its regulations as authorized by section 4 of this act, no person shall engage in mining in the state without first obtaining an operating permit from the board to do so. A separate operating permit shall be required for each mine complex. Any person, prior to receiving an operating permit from the board, must pay the basic permit fee of twenty-five dollars ($25) and must submit an application on a form provided by the board, which shall contain the following information and any other pertinent required data by the rules and regulations:

Fee $25.

Application.

Names and addresses. (a) Name and address of the operator and, if a corporation or other business entity, the name and address of its principal officers, partners and the like and its resident agent for service of process, if required by law;

Minerals. (b) Minerals expected to be mined;

Reclamation plan. (c) A proposed reclamation plan;

Starting date. (d) Expected starting date of mining;

Map. (e) A map showing the specific area to be mined and the boundaries of the land which will be disturbed; topographic detail; the location and names of all streams, roads, railroads, and utility lines on or immediately adjacent to the area; location of proposed access roads to

HeinOnline -- 1971 vol. II 1034 1971

be built and the names and addresses of the surface and mineral owners of all lands within the mining area, to the extent known to applicant;

(f) Types of access roads to be built and manner of reclamation of road sites on abandonment; Access roads.

(g) A plan of mining which will provide, within limits of normal operating procedures of the industry, for completion of mining and associated land disturbances. Plan of mining.

Section 9. (a) The reclamation plan shall provide that reclamation activities, particularly those relating to control of erosion, shall, to the extent feasible, be conducted simultaneously with mining and in any case shall be initiated promptly after completion or abandonment of mining on those portions of the mine complex that will not be subject to further disturbance by the mining operation. In the absence of an order by the board providing a longer period, the plan shall provide that reclamation activities shall be completed not more than two (2) years after completion or abandonment of mining on said portion of mine complex. Reclamation plan requirements. Control of erosion conducted with mining. Completion.

(b) In the absence of emergency or suddenly threatened or existing catastrophe (sic), an operator may not depart from an approved plan without having previously obtained from the supervisor or director written approval of his proposed change. Emergencies. Approval of change.

(c) Provision shall be made to avoid accumulation of stagnant water in the mined area which may serve as a host or breeding ground for mosquitoes or other disease-bearing or noxious insect life. Stagnant water control.

(d) All final grading shall be made with non-noxious, nonflammable, noncombustible solids unless approval has been granted by the board for a supervised sanitary fill. Final grading.

(e) Where mining has left an open pit exceeding two (2) acres of surface area, and composition of the floor and/or walls of which pit are likely to cause formation of acid, toxic, or otherwise pollutive solutions (hereinafter "objectional effluents") on exposure to moisture, the reclamation plan must include provisions which adequately provide for: Open pit.

(1) Insulation of all faces from moisture of water Insulation from moisture.

HeinOnline -- 1971 vol. II 1035 1971

contact by covering to a depth of two (2) feet or more with material or fill not susceptible itself to generation of such objectionable effluents; or

Processing of objectionable effluents.

(2) Processing of any such objectionable effluents in the pit before their being allowed to flow or be pumped out of it to reduce toxic or other objectionable ratios to a level deemed safe to humans and the environment by the board; or

Treatment basins.

(3) Drainage of any such objectionable effluents to settling or treatment basins wherein the objectionable effluents must be reduced to levels deemed safe by the board before release from the settling basin; or

Evaporation.

(4) Absorption and/or evaporation of objectionable effluents in the open pit itself; and

Prevention of entrance.

(5) Prevention of entrance into the open pit by persons or livestock lawfully upon adjacent lands by fencing, warning signs, and such other devices as may reasonably be required by the board.

Vegetative cover.

(f) Vegetative cover will be required in the reclamation plan if appropriate to the future use of the land as specified in the reclamation plan.

Reclamation of disturbed land.

(g) To the extent practical, the reclamation plan shall provide for the reclamation of all disturbed land. Proposed reclamation need not reclaim the areas to a better condition or different use than that which existed prior to development or mining.

Approval by board.

(h) A reclamation plan will be approved by the board if it adequately provides for the accomplishment of the activities heretofore specified.

Mining site inspection.

Section 10. Upon receipt of an application for an operating permit the mining site shall be inspected by a

Decision of board within 35 days.

supervisor. Within thirty-five (35) days of receipt of the application and reclamation plan by the board and receipt of the permit fee, the board shall either issue an operating permit to the applicant or return any incomplete or inadequate application to the applicant along with a description of the deficiencies. Failure of the board to so act within that period shall constitute approval of the application and the permit shall be issued promptly thereafter.

HeinOnline -- 1971 vol. II 1036 1971

Term of permit.

The operating permit shall be granted for the period required to mine the land covered by the plan and shall be valid until the surface or underground mining authorized by the permit is completed or abandoned, unless the permit is suspended by the board as provided in this act. The operating permit shall provide that the reclamation plan may be modified by the board, upon proper application of the permittee, after timely notice and opportunity for hearing, at any time during the term of the permit and for any of the following reasons:

Validity.

Modification.

Notice.

Hearing.

Reasons.

(a) To modify the requirements so they will not conflict with existing laws:

(b) The previously adopted reclamation plan is impossible or impracticable to implement and maintain;

(c) The operator and the supervisor mutually agreed, in the field, to temporarily modify the reclamation plan, pending final approval by the board.

Successor in interest.

Release of first operator.

Compliance.

Assumption of duty to reclaim.

Transfer of permit.

When one (1) operator succeeds to the interest of another in any uncompleted mining operation by sale, assignment, lease, or otherwise, the board may release the first operator from the duties imposed upon him by this act as to such operation; provided, that both operators have complied with the requirements of this act and the successor operator assumes the duty of the former operator to complete the reclamation of the land, in which case the board shall transfer the permit to the successor operator upon approval of the successor operator's bond as required under this act.

Acceptable sureties.

Section 11. Concurrently with issue of a permit, the board may provide the permittee with a list of corporate sureties acceptable to the board from whom the performance bond hereafter required can be obtained.

Deposit of performance bond.

Upon receipt of a permit the permittee, other than a public or governmental agency, shall not commence operation until the permittee has deposited with the board an acceptable performance bond on forms prescribed and furnished by the board. This performance bond shall be a corporate surety bond executed in favor of the board by a corporation authorized to do a surety business in the state of Montana and approved by the board. The bond shall be filed and maintained in an amount equal to the estimated cost of completing the reclamation plan

Corporate surety bond.

Requirements.

HeinOnline -- 1971 vol. II 1037 1971

for the area to be developed or mined during the next twelve (12) month period and any previously developed or mined area for which a permit has been issued and on which the reclamation has not been satisfactorily completed and approved. The board shall have the authority to determine the amount of the bond that shall be required, and may refuse any bond not deemed adequate. In no case shall the amount of the bond be more than five hundred dollars ($500) per acre of the area above described or fraction thereof.

Amount.

Maximum $500 per acre.

Conditions.

The bond shall be conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations adopted pursuant thereto.

Deposits in lieu of bond.

In lieu of the surety bond required by this section, the permittee may file with the board a cash deposit, negotiable securities acceptable to the board, or an assignment of a savings account in a Montana bank on an assignment form prescribed by the board.

Liability under bond until reclamation.

Liability under the bond shall be maintained as long as reclamation is not completed in compliance with the approved reclamation plan unless released prior thereto as hereinafter provided. Liability under the bond may be released only upon written notification from the board. Notification shall be given upon completion of compliance or acceptance by the board of a substitute bond. In no event shall the liability of the permittee or surety exceed the amount of the surety bond required by this section.

Release by board.

Limitation on liability.

Exemption.

A public or governmental agency shall not be required to post a bond under the terms of this chapter.

Blanket bond.

A blanket performance bond covering two (2) or more operations may be accepted by the board in lieu of separate bonds for each separate operation.

Suspension of bond obligation.

If adequate proof exists that a bond is unobtainable for any reason other than lack of fiscal responsibility on the operator's part from any source, the licensee's obligation to supply such bond shall be suspended until such time as a source for bonding is obtained.

Exemption.

Certificate that disturbed land will not exceed 5 acres.

Notwithstanding the foregoing, an applicant for a permit who shall, as part of his application, submit his duly acknowledged certificate that he will not, in the course

HeinOnline -- 1971 vol. II 1038 1971

of his entire operations in the state of Montana, exceed five (5) acres in aggregate of disturbed land unreclaimed, shall not be required to show financial capability to procure a performance bond as required by this section or thereafter to procure a corporate surety bond or make any in lieu deposit with the board therefor. Relief from such surety requirements shall in no wise relieve the permittee from any direct reclamation obligations hereunder. On acceptable showing of hardship on the part of an applicant, the board may relieve any permittee within the classification first described in this paragraph from such technical showings under sections 3 (11) and 8 which the board considers may be waived without injury to the interest of the public.

Hardship waiver.

Section 12. Within thirty (30) days after completion or abandonment of operations on an area under permit or within thirty (30) days after each anniversary date of the permit, whichever is earlier, or at such later date as may be provided by rules and regulations of the board and each year thereafter until reclamation is completed and approved, the permittee shall pay the annual fee of twenty-five dollars ($25) and shall file a report of activities completed during the preceding year on a form prescribed by the board, which report shall:

Within 30 days.

Annual fee $25.

Report of activities to board—requirements.

(a) Identify the permittee and the permit number;

(b) Locate the operation by subdivision, section, township and range, and with relation to the nearest town or other well-known geographic feature;

(c) Estimate acreage to be newly disturbed by operation in the next twelve (12) month period; and

(d) Update any maps previously submitted or specifically requested by the board. Such maps shall show:

(1) The permit area;

(2) The unit of disturbed land;

(3) The area to be disturbed during the next twelve (12) month period;

(4) If completed, the date of completion of operations;

(5) If not completed, the additional area estimated to be further disturbed by the operation within the following permit year; and

HeinOnline -- 1971 vol. II 1039 1971

(6) The date of beginning, amount and current status of reclamation performed during the previous twelve (12) months.

Inspection of permit area.

Section 13. Following receipt of the permittee's report, and at any other reasonable time the board may elect, the board shall cause the permit area to be inspected to determine if the permittee has complied with the reclamation plan and the board's rules and regulations.

Notice of deficiencies.

Correction.

Board may grant extensions.

The permittee shall proceed with reclamation as scheduled in his approved reclamation plan. Following written notice by the board noting deficiencies, the permittee shall commence action within thirty (30) days to rectify these deficiencies and shall diligently proceed until the deficiencies are corrected; provided, that deficiencies that also violate other laws that require earlier rectification shall be corrected in accordance with the applicable time provisions of such laws. The board may extend performance periods referred to in this section and in section 9 of this act, for delays clearly beyond the permittee's control, but only when the permittee is, in the opinion of the board, making every reasonable effort to comply.

Notice of proper reclamation.

Release of bond.

Within thirty (30) days after notification by the permittee and when in the judgment of the board reclamation of a unit of disturbed land area is properly completed, the permittee shall be notified in writing and his bond on said area shall be released or decreased proportionately to the acreage included within the bond coverage.

On failure to perform.

Board action.

Bids.

If reclamation of disturbed land is not pursued in accordance with the reclamation plan and the permittee has not commenced action to rectify deficiencies within thirty (30) days after notification by the board, or if reclamation is not properly completed in conformance with the reclamation plan within two (2) years after completion or abandonment of operation on any fraction of the permit area, or such longer period as may have been authorized hereunder, or if, after default by the permittee, the surety either refuses or fails to perform the work to the satisfaction of the board within the time required therefor, the board may, with the staff, equipment and material under its control, or by contract with others, take such actions as are necessary for required reclamation of the disturbed lands. Such work

HeinOnline -- 1971 vol. II 1040 1971

shall be let on the basis of competitive bidding. The board shall keep a record of all necessary expenses incurred in carrying out the work or activity authorized under this section, including a reasonable charge for the services performed by the state's personnel and the state's equipment and materials utilized.

Record of costs.

The board shall notify the permittee and his surety by order. The order shall state the amount of necessary expenses incurred by the board in reclaiming the disturbed land and a notice that the amount is due and payable to the board by the permittee and the surety. If the amount specified in the order is not paid within thirty (30) days after receipt of the notice, the attorney general, upon request of the board, shall bring an action on behalf of the state in district court. The surety shall be liable to the state to the extent of the bond.

Notice to permittee and surety of amount due.

Attorney general shall bring action.

In addition to the other liabilities imposed by this act, failure to commence action to remedy specific deficiencies in reclamation within thirty (30) days after notification by the board or failure to satisfactorily complete reclamation work on any segment of the permit area within two (2) years, or such longer period as the board may permit on permittee's application therefor, or on the board's own motion, after completion or abandonment of operations on any segment of the permit area shall constitute sufficient grounds for cancellation of a permit or license and refusal to issue another permit or licensee to the applicant; provided, however, that such action shall not be effected while an appeal is pending from any ruling requiring the same.

Failure to perform.

Cancellation of permit or license.

Section 14. A permit may be denied for any of the following reasons:

Permits denied for cause.

(a) The plan of development, mining, or reclamation conflicts with the state water and air purification standards;

(b) The reclamation plan does not provide an acceptable method for accomplishment of reclamation as required by this act.

A denial of a permit shall be in writing and state the reasons therefor.

HeinOnline -- 1971 vol. II 1041 1971

Denial and resubmission.

Section 15. A permit may be denied and returned to the applicant with a request that the application be resubmitted with a different plan for reclamation. The person making application for a permit may then resubmit to the board a new plan for reclamation.

Right of appeal.

Appeals board.

Section 16. A licensee, permittee or applicant who has been aggrieved by any decision of the board shall have the right of appeal to an appeals board comprised of the following: one (1) member of the fish and game department; two (2) qualified mining engineers to be appointed by the governor, at least one (1) of whom shall not be an employee of the state or any agency or arm thereof; one (1) member from the state department of agriculture; one (1) member of the department of health; and one (1) member from the state department of planning and economic development; and one (1) member from the legal staff of the attorney general.

Petition within 30 days after denial.

Notice.

Hearing.

The appeal shall be instituted by filing a petition with the appeals board within thirty (30) days after the denial of the permit. The petition shall contain a statement of the reasons for which the petitioner is aggrieved, and after reasonable notice the petitioner or his attorney or agent shall be afforded a hearing before the appeals board thereon.

Decision within 15 days.

Within fifteen (15) days after the hearing, the appeals board shall notify the petitioner in writing of its decision and the reasons therefor.

Right to judicial review.

Petition to district court within 30 days.

Service.

Section 17. A licensee, permittee or applicant aggrieved by a final decision of the appeals board is entitled to judicial review under this act. Proceedings for review shall be instituted by filing a petition in a district court within thirty (30) days after service of the final decision of the appeals board. Copies of the petition shall be promptly served upon the appeals board and all parties of record.

Petition requirements.

The petition shall include a concise statement of the facts upon which jurisdiction and venue are based, a statement of the manner in which the petitioner is aggrieved and the ground or grounds upon which the petitioner contends he is entitled to relief. The petition shall demand the relief to which the petitioner believes he is entitled.

HeinOnline -- 1971 vol. II 1042 1971

Transmittal of record.

Within thirty (30) days after the service of the petition, or within further time allowed by the court, the appeals board shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

Stipulation.

Costs.

Additional evidence.

If, before the date set for hearing, application is made to the court by the appellant for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the appeals board, the court may order that the additional evidence be taken before the court.

Review by court without jury.

The review shall be conducted by the court without a jury, and shall be confined to the administrative and court record. In cases of alleged irregularities in procedure before the appeals board, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

Court decision.

The court shall not substitute its judgment for that of the appeals board as to the weight of evidence on questions of fact. The court may affirm the decision of the appeals board or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the findings, inferences, conclusions, decisions or proceedings were: (a) in violation of constitutional or statutory provisions;

Grounds for reversal or modification.

(b) In excess of the statutory authority of the director, board, or the appeals board;

(c) Made upon unlawful procedure;

(d) Affected by other error of law;

(e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record, including the additional evidence introduced before the court as above provided;

HeinOnline -- 1971 vol. II 1043 1971

(f) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(g) Because findings of fact, upon issues essential to the decisions, were not made although requested.

Appeal to supreme court within 60 days.

Section 18. An aggrieved party may obtain review of a final judgment of a district court under this act by appeal to the supreme court within sixty (60) days after entry of judgment. Such appeal shall be taken in the manner provided by law for appeals from district courts in civil cases.

Exemption.

Section 19. No provision of this act shall be applicable to any exploration or mining work performed prior to the date of promulgation of the director's rules and regulations pursuant to section 4 of this act.

Small miner exempt on agreement.

Section 20. No provisions of this act shall apply to any small miner when the small miner agrees in writing, (1) That he shall not pollute or contaminate any stream; and

(2) That he shall provide protection for human and animal life through the installation of bulkheads installed over safety collars and the installation of doors on tunnel portals; and

(3) He shall not conduct a mining operation which will result in more than five (5) acres of the earth's surface being disturbed and unreclaimed.

Penalties for violations.

Failure to comply with the regulations stipulated in this section will constitute a misdemeanor, and this offense will subject the owners, and/or operators of said project to a fine of not less than ten dollars ($10) nor more than one hundred dollars ($100), payable to the board of equalization of the state of Montana, or any board, commission, or person authorized to collect said fine.

Confidential information.

Admissibility as evidence.

Section 21. Any and all information obtained by the board or by the director or his staff by virtue of applications for licenses or permits is confidential between the board and the applicant. Any information obtained by the board or by the director or his staff by virtue of applications for licenses or permits is, however, properly admissible in any hearing conducted by the director,

HeinOnline -- 1971 vol. II 1044 1971

the board, appeals board or in any judicial proceeding to which the director and the applicant are parties. Failure to comply with the secrecy provisions of this act shall be punishable by a fine of up to ten thousand dollars ($10,000) or one (1) year in jail. Penalties.

Section 22. Persons violating the provisions of this act shall be guilty of a misdemeanor and may be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six (6) months or by both such penalties. Penalties.

Section 23. This act shall not be applicable to operations on certain federal lands as specified by the board, provided it is first determined by the board that federal law, or regulations issued by the federal agency administering such land, impose controls for reclamation of said lands substantially equal to or greater than those imposed by this act. Certain federal lands exempt.

Section 24. This act shall not be applicable to any person or persons collecting rock samples as a hobby or when the collection of rocks and minerals is offered for sale in any amount not exceeding one hundred dollars ($100) per year.

Section 25. Severability. The provisions of this act are severable, and if any part or provision thereof shall be held void in decision of the court so holding shall not affect or impair any of the remaining parts of the provisions of this act that are severable from the invalid applications. Severability clause.

Section 26. This act is effective on its passage and approval. Effective immediately.

Approved March 9, 1971

CHAPTER NO. 253

An Act to Amend Section 32-2148, R.C.M. 1947, Eliminating the Fifty (50) Mile Per Hour Speed Limit for Trucks Over Eight Thousand (8,000) Pounds, and Providing a Speed Limit for Such trucks at Sixty-Five (65) Miles Per Hour on Interstate and Four-Lane Highways and Sixty (60) Miles Per Hour on Primary and Secondary Highways.

HeinOnline -- 1971 vol. II 1045 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 32-2148, R.C.M. 1947, is amended to read as follows:

"32-2148. **Special speed limitations on trucks, truck-tractors, motor-driven cycles and vehicles towing house trailers.** (a) No person shall operate any truck or truck-tractor the gross weight of which exceeds eight thousand (8,000) pounds at a speed greater than *sixty-five (65) miles per hour on those completed sections of interstate and four-lane divided highways, and sixty (60) miles per hour on those completed sections of primary and secondary highways; provided, however, that truck night time speed limit shall not exceed that of automobiles as stated in section 32-2144, R.C.M. 1947.*

Truck speed limits.

Night speed limit.

Cycles limited to 35 mph unless equipped with head lamps.

(b) No person shall operate any motor-driven cycle at any time mentioned in section 32-21-115, at a speed greater than thirty-five (35) miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of three hundred (300) feet ahead.

Vehicles towing house trailers limited to 50 mph.

(c) No person shall operate a vehicle which is towing a house trailer at a speed greater than a maximum of fifty (50) miles per hour."

Approved March 9, 1971

CHAPTER NO. 254

An Act Amending Sections 23-3013, 23-3509, 23-3610, 23-3709 and 23-3321, R.C.M. 1947, of the Election Laws Pertaining to Cancellation of Registry for Failure to Vote, Printing of Candidate's Name and Party Designation on Ballot, Marking Precinct Register Book Before Elector Votes, Absentee Ballots and Declining Nominations and Vacancies Before and After Primary.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 23-3013, R.C.M. 1947, is amended to read as follows:

"23-3013. **Cancellation of registry for failure to vote — reregistration — cancellation of registry of elector in United States service.** (1) Except as provided in sub-

HeinOnline -- 1971 vol. II 1046 1971

sections (3) *and (4)* of this section, immediately after every general biennial election, the registrar shall: After general election—duties of registrar.

(a) Compare the electors who have voted in each precinct, as shown by the official pollbooks, with the official register of each precinct; Compare voters with register.

(b) Remove the registry cards of all electors who failed to vote, mark each card "cancelled", and place cancelled cards for the entire county in alphabetical order in the cancelled file"; Remove cards of electors failing to vote.

(c) Notify each elector in writing before the thirty-first day after cancellation by sending notice to his post office address as shown on the election records. Notice to elector.

(2) An elector whose card is removed and cancelled may register in the same manner as his original registration was made. Registration.

(3) The registration of an elector in the United States service may be cancelled upon failure to vote in the previous two (2) general elections; Cancellation—elector in United States service failure to vote in 2 general elections.

(4) The registration of an elector who actually votes by absentee ballot shall not be cancelled if his ballot is received and rejected by the registrar within ten (10) days succeeding the election." Voter using absentee ballot.

Section 2. Section 23-3509, R.C.M. 1947, is amended to read as follows: Amending clause.

"23-3509. **Printing of candidate's name and party designation on ballot — no party designation for candidates for supreme and district court judgeships — persons nominated by more than one party.** (1) Candidates' names shall be printed in one place on the ballot with the name of the party or political organization, as found in the certificate of nomination in not more than three (3) words, printed opposite the name. Ballot requirements. Name of candidate. Political party.

(2) The names of candidates for chief justice, associate justices, and district court judges shall be followed by: "Nominated without party designation." Justices and judges —"nominated without party affiliation."

(3) If a person is nominated for the same office by more than one (1) party, he shall file a written election with the officer with whom he filed his declaration of nomination in the time required to file the declaration. Nomination by more than one party—candidate shall file written election.

HeinOnline -- 1971 vol. II 1047 1971

First nomination.

If he fails or neglects to file an election, *his name shall appear under the party with whom his nominating declaration was first filed.*"

Amending clause.

Section 3. Section 23-3610, R.C.M. 1947, is amended to read as follows:

Election judges shall mark register.

"23-3610. **Marking precinct register book before elector votes — procedure.** (1) The election judges at every *primary,* general or special election shall, in the precinct register book, mark a cross (X) upon the line opposite to the name of the elector.

Elector must sign.

(2) Before an elector is permitted to vote, the election judges shall require the elector to sign his name on the place designated in the precinct register.

Affidavit for elector unable to sign.

(3) The election judges shall require an elector not able to sign his name to produce two (2) electors who shall make an affidavit before the election judges, or one (1) of them, in a form prescribed by the secretary of state.

Return to registrar.

(4) The affidavit shall be filed by the election judges, and returned to the registrar with the returns of the election. One (1) of the judges shall write the elector's name, note the fact of his inability to sign, and the names of the two (2) electors.

Elector shall not vote.

(5) If the elector fails or refuses to sign his name, and if unable to write fails to procure two (2) electors who will take the oath required, he shall not be allowed to vote.

After canvass, delivery of register, returns and pollbook.

(6) Immediately after the canvass of the returns, the election judges shall deliver to the registrar the official register, sealed, with the election returns and pollbook which have been used for the election.

Precinct list of voters.

Pollbook.

(7) Each precinct shall keep a list of persons voting, and the name of each person who votes shall be entered in it and numbered in the order voting. This list is known as the pollbook."

Amending clause.

Section 4. Section 23-3709, R.C.M. 1947, is amended to read as follows:

Delivery of absentee ballots.

"23-3709. **Delivery of ballots to election judges — ballots to be rejected — ballots not to count.** (1) If the absentee ballot is received prior to delivery of the of-

HeinOnline -- 1971 vol. II 1048 1971

ficial ballots to the election judges, the registrar or clerk shall deliver the larger envelope to the judges at the same time the ballots are delivered.

(2) If absentee ballots are received after the ballots are delivered to the election judges, *but prior to the close of the polls,* the registrar or clerk shall immediately deliver the larger envelopes to the judges.

Prior to close of polls.

(3) If absentee ballots are received by the registrar or clerk for which application was not received prior to twelve (12) noon on the day preceding an election, *or received after the close of the polls,* the clerk shall endorse upon the voter's envelope the date and exact time of receipt and the words "To be rejected". Absentee ballots so endorsed shall be delivered to the election judges of the precinct *or retained by the registrar or clerk if the judges have adjourned* and shall be rejected.

Rejection of absentee ballots.

(4) If an elector votes absentee ballot and dies between the time of balloting and election day, his ballot will not count."

Ballot not counted if voter dies.

Section 5. Section 23-3321, R.C.M. 1947, is amended to read as follows:

Amending clause.

"23-3321. **Declining nomination — vacancies before and after primary.** (1) Twenty (20) days or more before the election, a person nominated for public office may decline the nomination by a writing sent to the office with whom his nominating declaration is filed. In city elections, the declination shall be made ten (10) days or more before the election.

Nominee may decline nomination.

(2) If a vacancy occurs in the office of a candidate in case of death or removal from the state or district before the date of the primary, the vacancy shall be filled by the affected political party.

Vacancies before primary.

(3) When a vacancy occurs in the office of a candidate after the primary and before the general election in *any district however constituted,* the vacancy shall be filled as follows:

Vacancies before general election.

(a) The vacancy shall be filled by a committee of three (3) members selected from each county *or district* by the county central committees *of the county or district* of the affected political party.

Committee.

HeinOnline -- 1971 vol. II 1049 1971

Certificate to secretary of state.

(b) The secretary of the committee shall transmit a certificate to the secretary of state with the information contained on the original certificate plus the cause of the vacancy, the name of the person nominated, the office to be filled, and the name of the person for whom the nomination was made.

Secretary shall insert name—fee.

(c) When the certificate is filed with the secretary of state *accompanied by the proper filing fee* he shall insert the name of the person nominated to fill the vacancy.

Secretary shall certify to registrar.

(d) If the secretary of state has certified the nominations to the registrars, he shall immediately certify to the registrars the name of the person nominated to fill the vacancy, the office to be filled, the party or political principle he represents, and the name of the person for whom the nominee is substituted."

Approved March 9, 1971

CHAPTER NO. 255

An Act Providing for Supplementing Provisions of the Special Improvement District Revolving Fund to Include Sidewalk, Curb and Alley Approach Warrants; Amending Sections 11-2269, 11-2270, 11-2271 and 11-2272, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-2269, R.C.M. 1947, is amended to read as follows:

City or town shall create "special improvement district revolving fund" for payment of bonds or sidewalk, curb and alley approach warrants.

"11-2269. **Special improvement district revolving fund.** The city or town council or commission of any city or town which has heretofore created, or may hereafter create, any special improvement district or districts for any purpose, may in its discretion, as to such district or districts heretofore created, and shall, as to such district or districts hereafter created, in order to secure prompt payment of any special improvement district bonds *or sidewalk, curb and alley approach warrants* issued in payment of improvements made therein, and the interest thereon as it becomes due, create, establish, and maintain by ordinance a fund to be known and designated as "Special Improvement District Revolving Fund"."

HeinOnline -- 1971 vol. II 1050 1971

Section 2. Section 11-2270, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-2270. **Transfers from general fund and tax levy for revolving fund.** For the purpose of providing funds for such revolving fund the city or town council (1) may in its discretion, from time to time, transfer to the revolving fund from the general fund of the city or town such amount or amounts as may be deemed necessary, which amount or amounts so transferred shall be deemed and considered, and shall be, loans from such general fund to the revolving fund; and Council may transfer from general fund to revolving fund. Loans.

(2) shall, in addition to such transfer or transfers from the general fund, or in lieu thereof, levy and collect for such revolving fund such a tax, hereby declared to be for the public purpose, on all the taxable property in such city or town as shall be necessary to meet the financial requirements of such fund, such levy, together with such transfer, not to exceed in any one year five per centum (5%) of the principal amount of the then outstanding special improvement district bonds *or sidewalk, curb and alley approach warrants.*" Levy for revolving fund. Limitation.

Section 3. Section 11-2271, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-2271. **Loans from revolving fund for paying improvement district warrants — authorization by electors.** (1) Whenever any special improvement district bond *or sidewalk, curb and alley approach warrants,* or any interest thereon, shall be, at the time of the passage of this act, or shall thereafter become due and payable, and there shall then be either no money or not sufficient money in the appropriate district fund with which to pay the same, an amount sufficient to make up the deficiency may, by order of the council, be loaned by the revolving fund to such district fund, and thereupon such bond or warrant or such interest thereon, or in case of such bonds or warrants due at the time of the passage of this act, such part of the amount due on such bond or warrant, whether it be for principal or for interest or for both as the council may in its discretion elect or determine, shall be paid from the money so loaned or from the money so loaned when added to such insufficient amount, as the case may require; provided, however, that the above Insufficient funds to pay due bonds or warrants. Deficiency. Loan from revolving fund to district fund. Limitations.

HeinOnline -- 1971 vol. II 1051 1971

provisions of sections 11-2269, 11-2270 and 11-2271 of this code shall not apply to any district or districts heretofore created, unless and until, at an election, either the regular annual municipal election or a special election called by the council, a majority of the electors whose names appear as the owners of property in the city or town on the last completed tax roll of the county in which the city or town is situated, shall authorize the city or town council to proceed thereunder, such election to be called and conducted in the manner and under such regulations as the council may provide. At such election no person other than such qualified elector and taxpayer shall vote on said question, and a majority of those voting thereat shall be sufficient to determine, and shall determine, the question whether the council be authorized or not to proceed under sections 11-2269, 11-2270 and 11-2271 of this cide.

Municipal election.

Majority vote shall authorize council.

Voters shall be qualified electors and taxpayers.

(2) In connection with any public offering of special improvement district bonds *or sidewalk, curb and alley approach warrants,* the city or town council may undertake and agree to issue orders annually authorizing loans or advances from the revolving fund to the district fund involved in amounts sufficient to make good any deficiency in the bond and interest accounts thereof to the extent that funds are available, and may further undertake and agree to provide funds for such revolving fund pursuant to the provisions of section 11-2270 by annually making such tax levy (or, in lieu thereof, such loan from the general fund) as the city or town council may so agree to and undertake, subject to the maximum limitations imposed by said section 11-2270, which said undertakings and agreements shall be binding upon said city or town so long as any of said special improvement district bonds *or sidewalk, curb and alley approach warrants* so offered, or any interest thereon, remain unpaid."

Council may issue orders annually authorizing loans from revolving fund.

Tax levy or loan from general fund.

Limitations.

Amending clause. Section 4. Section 11-2272, R.C.M. 1947, is amended to read as follows:

"11-2272. **Lien for loans from revolving fund — surplus district funds transferred to revolving fund,** *investment of funds.* Whenever any loan is made to any special improvement district fund *or sidewalk, curb and alley approach warrants* from the revolving fund, the revolving fund shall have a lien therefor on all unpaid assessments and installments of assessments on such dis-

Lien on assessments.

HeinOnline -- 1971 vol. II 1052 1971

trict, whether delinquent or not, and on all moneys thereafter coming into such district fund, to the amount of such loan, together with interest thereon from the time it was made at the rate, or percentage, borne by the bond or warrant for payment of which, or, of interest thereon, such loan was made; and whenever there shall be moneys in such district fund which are not required for payment of any bond or warrant of such district, or of interest thereon, so much of such moneys as may be necessary to pay such loan shall, by order of the council, be transferred to the revolving fund; and after all the bonds and warrants issued on any special improvement district *or sidewalk, curb and alley approach warrants* have been fully paid, all moneys remaining in such district fund shall by order of the council be transferred to and become part of the revolving fund.

Excess monies—transfer to revolving fund.

Surplus reserves not needed for immediate use, may from time to time be invested in securities of the United States or certificates of deposit, approved by the city council. The interest earned from such investments shall be placed to the credit of the revolving fund.''

Investment of surplus reserves.

Approved March 9, 1971

CHAPTER NO. 256

An Act to Amend Section 5-908, R.C.M. 1947, to Provide for Fees to be Paid by Banks, Investment Companies and Trust Companies for Credit to the General Fund, Consisting of a Four Hundred Dollar ($400) Supervision Fee to be Paid On or Before June 30 of Each Year, and an Examination Fee of Ten Cents (10¢) Per One Thousand Dollars ($1,000) of Total Assets as of the Date of the Examination to be Paid at the Conclusion of the Examination; to Amend Sections 82-1002, 82-1008, 89-2107, 5-910, R.C.M. 1947, to Increase the Regular Examination Charges for Counties, Cities, Towns, County-Free High Schools, School Districts, for Each Person Engaged in the Examination and to Require that All Moneys Collected be Credited to the General Fund of the State; to Repeal Sections 5-903, 5-904, 5-905, 5-906, 5-907, R.C.M. 1947.

HeinOnline -- 1971 vol. II 1053 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 5-908, R.C.M. 1947, is amended to read as follows:

General fund.

Bank trust or investment company shall pay annual supervision fee—$400.

Examination fee—10c per $1,000.

"5-908. **Payments by banks, investment and trust companies.** For the credit of *the general* fund *of the state,* each bank, trust company or investment company, under the supervision of the superintendent of banks, shall pay to the state treasurer, on or before the *last day of June* of each year, a *supervision* fee *of four hundred dollars ($400). An examination fee of ten cents (10¢) for each one thousand dollars ($1000) of total assets as of the date of the examination shall be paid at the conclusion of the examination.*

Amending clause.

Section 2. Section 82-1002, R.C.M. 1947, is amended to read as follows:

Duties of state examiner.

"82-1002. **Duties of state examiner.** The duties of the state examiner and his assistants are:

Annual examination of public officers' books and accounts.

1. To examine at least once in each year the books and accounts of the state treasurer, clerk of the supreme court, county treasurers, county clerks, county assessors, district court clerks, county auditors, sheriffs, public administrators, boards of county commissioners of each county, and all other county and municipal officers, boards and institutions.

Reimbursement of costs—$80 per day per examiner.

Deposit in general fund.

The costs incurred by the state examiner and his assistants in conducting the examinations of counties, cities and towns shall be reimbursed to the state at the rate of eighty dollars ($80) per day for each person engaged in an examination, and the money shall be paid at the conclusion of the examination to the state treasurer who shall credit such payment to the general fund of the state.

Accounting methods for counties, cities, towns, and school districts.

2. To prescribe the general methods and details of accounting for the receipt and disbursement of all moneys belonging to the counties, cities, towns, or school districts, and to establish in all such offices such general methods and details of accounting as are required by law or are prescribed by the state examiner, and all county, city, town or school district officers are hereby compelled to conform therewith.

Annual examinations of public officers, boards, and institutions.

3. To visit each and every office of the officers, boards and institutions named in this act at least once in each year; and at such time to examine the books, accounts and

HeinOnline -- 1971 vol. II 1054 1971

vouchers in said office, to verify statements of receipts and expenditures, and indebtedness, and to examine and pass upon the character and amounts of any commissions, percentage, or charges for services, exacted by any officer, and of all claims allowed by any of said officers, boards or institutions.

Twice yearly examination of banks, building and loan associations, investment and loan companies.

4. To visit twice each year, or oftener, without previous notice, each of the banks, banking corporations and saving banks, building and loan associations, investment and loan companies incorporated under the laws of this state, or doing business under any law of the state concerning corporations, and to examine into their affairs and ascertain their financial condition; to inspect and verify the value and the amount of their securities and assets, and to inquire into any violation of laws governing such banks, institutions, building and loan associations.

Report to governor and attorney general.

Violations—procedure.

5. The state examiner, after examination of the affairs of any officer or board of county commissioners, must make report to the governor and to the attorney general of the result of such examination, within sixty (60) days thereafter; and if any violation of law or nonperformance of duty is found on the part of any such officer or board, they must be proceeded against by the attorney general or county attorney as provided by law.

Report to county commissioners and county attorney.

Violations—procedure.

6. The state examiner, or his assistants, after the examination of the affairs of any county officers, must make report of such examination to the board of county commissioners and to the county attorney of such county, within thirty (30) days after such examination; and if any violations of law or nonperformance of duty is found on the part of any county officer or board, such officer or board must be proceeded against by the county attorney of the county as provided by law.

Other reports.

7. The state examiner must report as provided in section 2 (82-4002) of this act.

Duty of county and city attorneys to advise state examiner of actions.

8. It shall be the duty of the county attorneys of the various counties of the state of Montana and the city attorneys of the various cities and towns of the state of Montana to make report to the state examiner within thirty (30) days after receiving from the state examiner the report of any examination of any county, city or town, as to what proceedings he has instituted or is intending to institute relating to violations of law and non-

HeinOnline -- 1971 vol. II 1055 1971

performance of duty, as set forth in the report of the state examiner.

For failure to report, examiner may withhold salary.

9. If any county or city attorney refuses or neglects to notify the state examiner within thirty (30) days after receiving the report of any examination of any county, city or town, as to what proceedings he has instituted or is about to institute against any officer for violations of law or nonperformance of duty as evidenced by matters of record, and as set forth in the state examiners report; the state examiner may withhold the salary of such county or city attorney by filing notice with the proper officials, until proper and satisfactory explanation has been made to the state examiner for such nonperformance of duty, provided further, that should the county or city attorney fail or refuse to prosecute such cases, the state examiner may employ an attorney to prosecute such case at the expense of the county, city, or town.

Filing notice.

May employ attorney.

Special examinations—public monies.

10. When in the judgment of the state examiner it shall be deemed necessary, special examinations may be made of any county, city, town, school district, irrigation district, high school, or any other county or municipal office, board or commission, whether temporary or permanent, however created, and for whatever purpose, having the control, management, collection or disbursement of any public money of any character or description. Costs for such special examination shall be reimbursed to the state at the conclusion of such examination at the rate of eighty dollars ($80) a day for each person engaged in the examination and shall be paid to the state treasurer for the credit of the general fund."

Reimbursement of costs—$80 per day per examiner.

Amending clause.

Section 3. Section 82-1008, R.C.M. 1947, is amended to read as follows:

"82-1008. **Examination of accounts of cities, towns and certain school districts, and fire districts.** The state examiner in addition to the duties now imposed upon his office, shall have the power and authority and it shall be his duty, to make at least one (1) examination each year of the books and accounts of all incorporated cities and towns.

Annual examination—incorporated cities and towns.

Annual examination—school districts having high schools.

The state examiner shall have the power and authority, and it shall be his duty, to make at least one (1) examination during each fiscal year of the books and accounts of all school districts of the first and second class and

HeinOnline -- 1971 vol. II 1056 1971

of third class districts maintaining a high school, in like manner as is now required by law for the examination of the books and accounts of state and county officers.

Disposition of copies of report.

A copy of the examiner's report shall be filed with the county superintendent of schools, the state superintendent of public instruction, and the clerk of the school district, and any citizen of the state of Montana shall have the right to inspect, copy out and publish any of the facts therein contained.

Annual examination—fire districts and volunteer fire departments.

The state examiner shall have the power and authority and it shall be his duty to make at least one (1) examination during each fiscal year (of) the books and accounts of all fire districts and volunteer fire departments created and existing in unincorporated areas, towns and villages supported by a mill levy.

Fee—$7.50 per hour per man.

For such examination a fee of seven dollars fifty cents ($7.50) per hour per man shall be charged and said fee shall be paid by the fire district or fire department into the state treasury and credited by the state treasurer to the earmarked revenue fund.

Deposit.

Copy filed with county clerk.

A copy of such audit shall be filed with the clerk and recorder of the county in which such fire district or fire department exists.

Reimbursement of costs—county-free high schools, school districts or departments.

$70 per day per examiner.

The costs incurred by the state examiner and his assistants in conducting the examinations of county-free high schools, school districts or departments shall be reimbursed to the state at the rate of seventy dollars ($70) per day for each person engaged in an examination, and the moneys shall be paid at the conclusion of the examination to the state treasurer who shall credit such payment to the general fund of the state."

Amending clause.

Section 4. Section 89-2107, R.C.M. 1947, is amended to read as follows:

"89-2107. **Records — inspection — fees — reports.** (1) It shall be the duty of the board of commissioners to keep or cause to be kept a full and complete book and record of the accounts, records, contracts, securities, minutes of meetings, and other matters of every kind pertaining to or belonging to the irrigation district in the form prescribed by the state examiner. It is hereby made the duty of the state examiner to prescribe such

Duty of board to keep records of irrigation district.

Forms.

HeinOnline -- 1971 vol. II 1057 1971

Examination.

Open to inspection.

Failure to comply.

Removal from office.

County attorney shall bring ouster proceedings.

forms for the use of irrigation districts, and to examine the same as provided by law for the examination of the affairs of county officers. Such books and records shall be open to the inspection of any landowner of the district in the same manner as other public records. The failure of the board of commissioners to comply with the provisions of this section shall be grounds for removal from office and it is hereby made the duty of the county attorney of any county in which such irrigation district is situated to bring and prosecute ouster proceedings against any commissioner or commissioners, and the cost and expense thereof shall be a charge against such irrigation district, to be paid as are other bills against such districts.

District appointed fiscal agent for United States.

Duty to provide access to records.

(2) In case any district is appointed fiscal agent of the United States, or by the United States is authorized to make collections for or on behalf of the United States in connection with any federal irrigation project, such board of commissioners, or the secretary thereof, shall at any time allow any officer or employee of the United States, when acting under the orders of the secretary of the interior, to have access to all books, records, and vouchers of the district which are in possession or control of the secretary, or of said board.

Duty of board to file annual report with county clerk.

(3) It shall be the duty of the board of commissioners to file with the county clerk and recorder of the county in which the district is located, annually, within ten *(10)* days from and after March 1 of each year, a sworn report showing the assets and liabilities of the district, the amount of money received during the preceding year, and the amount expended during said time, and shall cause said report to be published at least once in the official newspaper of such county.

Notice of examination.

4. It shall be the duty of the state examiner or his representative to notify the secretaries of such districts of the time of presenting the books and records at the courthouse for examination.

Irrigation districts—reimbursement of examination costs—$70 per day per examiner.

5. The costs incurred by the state examiner and his assistants in conducting the examinations of irrigation districts shall be reimbursed to the state at the rate of seventy dollars ($70) per day for each person engaged in an examination, and the moneys shall be paid at the conclusion of the examination to the state treasurer who shall credit such payment to the general fund of the state."

Deposit.

HeinOnline -- 1971 vol. II 1058 1971

Section 5. Section 5-910, R.C.M. 1947, is amended to read as follows:

Amending clause.

"5-910. **Special examinations and fees.** Special examinations may be made of any bank, *trust company, investment company,* building and loan association, *or* credit union when in the judgment of the *superintendent of banks* it shall be deemed necessary, and such special examination shall be charged for at the rate of *one hundred dollars ($100)* a day for each person engaged in the examination. All special examination fees or charges *shall be paid at the conclusion of the examination and the moneys* so collected by the state examiner and ex officio superintendent of banks *shall be* paid to the state treasurer, *for the credit of* the general fund."

Special examinations—banks, trust companies, investment companies, building and loan associations, and credit unions. $100 per day per examiner.

Section 6. Sections 5-903, 5-904, 5-905, 5-906, 5-907, R.C.M. 1947, are repealed.

Repealing clause.

Approved March 9, 1971

CHAPTER NO. 257

An Act to Amend Section 23-3001, R.C.M. 1947, to Require County by County Compilation of Persons Reaching Voting Age by the Montana Highway Patrol.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 23-3001, R.C.M. 1947, is amended to read as follows:

Amending clause.

"23-3001. **Highway patrol to submit new-voter lists to major political parties.** No later than January 31 in any year in which a general election is held, the Montana highway patrol shall submit to the chairman of each major political party of the state, a list prepared from its driver license registration files, showing names and addresses of all persons, *compiled on a county by county basis,* who have reached voting age since the last general election *and those* who will reach voting age before the date of the general election. No official of the Montana highway patrol shall be responsible for any honest error or omission in preparing the lists."

Duty of highway patrol to submit list of registered persons reaching voting age to chairman of major political parties.

Approved March 9, 1971

HeinOnline -- 1971 vol. II 1059 1971

CHAPTER NO. 258

An Act Amending Sections 23-3201, 23-3202, 23-3203, 23-3204 and 23-3206, R.C.M. 1947, to Include Election Clerks Similar to the Appointment and Instruction of Election Judges.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 23-3201, R.C.M. 1947, is amended to read as follows:

"23-3201. **Appointment of election judges** *and clerks* **— second board of election judges — duties.** (1) At their regular meeting next preceding a general primary election, the commissioners shall appoint five (5) election judges *and two (2) clerks* for each precinct having two hundred (200) or more electors and three (3) election judges *and two (2) clerks* for each precinct having less than two hundred (200) electors. Judges for new precincts shall be appointed based upon the estimated number of electors.

Preceding primary, commissioners shall appoint election judges and clerks.

Precinct having 350 or more electors.

(2) If a precinct has three hundred fifty (350) or more electors, the commissioners may appoint a second board of five (5) election judges *and two (2) clerks* who shall have the same qualifications as the first board. The second board shall:

Duties of second board.

(a) Meet at their respective polling places as ordered;

(b) Count and tabulate ballots as soon as the first board has completed their duties in regard to the voting.

(3) If counting and tabulating the ballots is not completed by 8 a.m. on the day following the election, the first board shall reconvene and relieve the second board until 8 p.m. when the second board shall again reconvene and relieve the first board until the ballots are counted and tabulated.

Relief by first board.

Duties of election judges.

(4) The election judges constituting the boards shall number the ballots and count the tally upon the tally sheets and indicate upon the tally sheets the work of each board. The board completing the county shall certify the returns as required by law."

Amending clause.

Section 2. Section 23-3202, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1060 1971

"23-3202. **Manner of choosing election judges** *and clerks* **— vacancies — candidates and their relatives ineligible — exceptions.** (1) The election judges *and clerks* shall be chosen from lists of qualified voters submitted by the two (2) major political parties thirty-five (35) days or more before the commissioners meeting which precedes the next primary election.

Judges and clerks chosen from qualified voters.

(2) The list of each party *may* contain twice the number of election judges *and clerks* to be appointed and not more than a majority may be appointed from one (1) political party for each precinct.

Lists.

(3) The commissioners may appoint election judges *and clerks* in their discretion to fill vacancies or if a major political party fails to submit a list of election judges.

Vacancies.

(4) No person shall be appointed to serve as an election judge or election clerk who is a candidate, spouse of a candidate, or related to candidate for office within the second degree of consanguinity. However, this subsection does not apply to school district elections nor to candidates for precinct committeeman or committeewoman."

Limitations.

Section 3. Section 23-3203, R.C.M. 1947, is amended to read as follows:

Amending clause.

"23-3203. **Judges to choose clerks and to serve until others appointed.**

(1) The election judges *and clerks* continue to be judges of all elections held in their precincts until other judges *and clerks* are appointed.

Length of service.

(2) The commissioners shall fill vacancies which occur in the office of election judge *or clerk.*"

Vacancies.

Section 4. Section 23-3204, R.C.M. 1947, is amended to read as follows:

Amending clause.

"23-3204. **Registrar to notify judges** *and clerks* **of their appointment and of impending general elections — judges to post notices of election** (1) The registrar must notify the election judges *and clerks* in writing of their appointment.

Written notice of appointment.

(2) Twenty (20) days or more before any general election, the registrar shall mail two (2) notices of the election to the election judges. The notices shall be in the form prescribed by the secretary of state.

20 days before general election— notices.

HeinOnline -- 1971 vol. II 1061 1971

10 days before election—posting of notices.

(3) Ten (10) days or more prior to the election, the election judges shall post one (1) notice at the place where the election will be held and the other in one (1) of the most public places in the precinct."

Amending clause.

Section 5. Section 23-3206, R.C.M. 1947, is amended to read as follows:

Instruction for judges and clerks.

"23-3206. **Instruction of judges** *and clerks.* (1) Before each election, all election judges *and clerks* who do not possess a certificate of instruction shall be instructed by a person named by the commissioners in the powers, duties, and liabilities of election judges.

Meetings.

(2) The instructor shall call meetings as necessary.

2 hours.

(a) The election judges *and clerks* shall attend each meeting and receive at least two (2) hours of instruction.

Composition.

(b) Each election judge *and clerk* shall receive compensation fixed by the commissioners at the prevailing federal minimum wage for instruction to be paid at the same time and in the same manner as for services on election day.

Certificate of completion valid for 2 years.

(3) Each judge *and clerk* shall receive a certificate of completion from the instructor upon completion of the course. Each certificate is valid for a period of two (2) years.

Certificate required.

(4) No person shall serve as election judge *or clerk* without a valid certificate. However, this does not apply to persons filling vacancies in emergencies.

Notice of instruction.

(5) Notice of place and time of instruction must be given to the county chairmen of the two (2) major political parties by the commissioners."

Approved March 9, 1971

CHAPTER NO. 259

An Act to Extend a Contractual Right to Attorney Fees Granted to One Party to a Contract to the Prevailing Party in Any Lawsuit on Such Contract Whether or Not the Contract Expressly Provides for Such Fees as to Such Prevailing Party.

HeinOnline -- 1971 vol. II 1062 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Right to recover attorney's fees—prevailing parties to contracts.

Section 1. Whenever by virtue of the provisions of any contract or obligation in the nature of a contract, made and entered into at any time after the effective date of this act, one party to such contract or obligation has an express right to recover attorney fees from any other party to the contract or obligation in the event the party having that right shall bring an action upon the contract or obligation, then in any action on such contract or obligation all parties to the contract or obligation shall be deemed to have the same right to recover attorney fees, and the prevailing party in any such action, whether by virtue of the express contractual right, or by virtue of this act, shall be entitled to recover his reasonable attorney fees from the losing party or parties.

Approved March 9, 1971

CHAPTER NO. 260

An Act Amending Section 91-3906, R.C.M., 1947, to Provide that the Order Discharging an Executor or Administrator Must Be Made Within Two Years.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-3906, R.C.M., 1947, is amended to read as follows:

Final settlement.

"91-3906. **Final settlement, order and discharge.** When the estate has been fully administered, and it is shown by the executor or administrator, by the production of satisfactory vouchers, that he has paid all sums of money due from him, and delivered up, under the order of the court or judge, all the property of the estate to the parties entitled, and performed all the acts lawfully required of him, the court or judge must make an order discharging him from all liability to be incurred thereafter. *If the estate has not been distributed in its entirety, and the executor or administrator discharged within two (2) years from the date of initial appointment of the executor or administrator, the clerk of the district court shall advise the district judge thereof and the judge shall notify the executor, administrator and his attorney of record to ap-*

Order of discharge from liability.

Duty of clerk to advise judge of estates not closed in 2 years.

Order to show cause.

HeinOnline -- 1971 vol. II 1063 1971

pear before the court and show cause why the estate has not been distributed in its entirety and the executor or administrator discharged.

Order of distribution within 30 days.

If after such show cause hearing, the judge determines that good cause does not exist for failure to distribute the estate, the judge shall make an order directing that the estate be distributed in its entirety within thirty (30) days and that the executor or administrator and his attorney shall receive no fee or other compensation from the estate."

Fees forfeited.

Approved March 10, 1971

CHAPTER NO. 261

An Act to Include as Persons Eligible for Medical Assistance Benefits Persons Who Are in State Operated Institutions; and Not Requiring Counties to Reimburse the State for Payments Made on Behalf of Persons in State Operated Institutions; Amending Sections 71-211, 71-402, 71-604, 71-1202, 71-1512, 71-1516, 71-1517, 71-1519, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-1512, R.C.M., 1947 is amended to read as follows:

Definition of medical assistance.

"71-1512. **Services included in medical assistance.** The definition of medical assistance shall include:

(a) Inpatient hospital services;

(b) Outpatient hospital services;

(c) Other laboratory and X-ray services;

(d) Skilled nursing home services;

(e) Physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled nursing home or elsewhere.

Other inclusions.

It may also include, although not necessarily limited to the following:

(a) Medical care, or any other type of remedial care recognized under state law, furnished by licensed practi-

HeinOnline -- 1971 vol. II 1064 1971

tioners within the scope of their practice as defined by state law;

(b) Home health care services;

(c) Private duty nursing services;

(d) Dental services;

(e) Physical therapy and other related services;

(f) Clinic services;

(g) Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(h) Other diagnostic, screening, preventive, rehabilitative, chiropractic and osteopathic services;

(i) Any additional medical service or aid allowable under or provided by the Federal Social Security Act.

The foregoing services shall be provided to the fullest extent that moneys appropriated, collected, accumulated or matched from any source by the state department will allow. Priorities of the foregoing items and amounts of medical assistance, if funds are inadequate, shall be determined by the state department. The state department shall establish standards of assistance." Services shall be provided to extent of funds. Priorities. Standards.

Section 2. Section 71-1516, R.C.M., 1947, is amended to read as follows: Amending clause.

"71-1516. **Eligibility requirements for medical assistance.** Medical assistance shall be granted in behalf of all persons who reside in the state of Montana, including residents temporarily absent from the state and who meet any of the following requirements: Eligibility requirements for medical assistance.

(1) Who receive all or part of their income from the federally aided public assistance programs: old-age assistance, aid to the blind, aid to dependent children, and aid to the permanently and total disabled; Recipients of federally aided public assistance programs.

(2) All persons, who upon application, would be eligible for financial assistance under any one of the federally aided programs referred to above; Persons eligible.

(3) All persons who would be entitled to financial assistance under one of the federally aided categories Persons eligible except for residency.

HeinOnline -- 1971 vol. II 1065 1971

except that they do not meet the durational residence requirements or relative responsibility requirements of any of the public assistance programs above enumerated;

Persons in medical institutions.

(4) Persons in medical institutions who, if they were no longer in such institution, would be eligible for financial assistance under one of the above programs;

Children under aid to dependent children.

(5) All children under twenty-one who meet the conditions of eligibility in the state's plan for aid to dependent children, other than with respect to school attendance;

Children in foster care.

(6) All children under twenty-one who are in foster care under the supervision of the state."

Section 3. Section 71-1517, R.C.M., 1947, is amended to read as follows:

Determination of assistance.

Appropriated funds.

"71-1517. **Amount, scope and duration of assistance.** The amount, scope, and duration of medical assistance granted eligible persons shall be determined by the state department. *Payments on behalf of persons in state operated institutions shall be made only from funds appropriated specifically for this purpose, as such funds are available.*"

Amending clause.

Section 4. Section 71-211, R.C.M., 1947, is amended to read as follows:

State department—agent for federal government in welfare matters.

"71-211. **State department to act as agency of federal government — assistance to ward Indians.** The state department shall act as the agent of the federal government in public welfare matters of mutual concern in conformity with this act and the Federal Social Security Act, and in the administration of any federal funds granted to the state to aid in the purposes and functions of the state department.

Counties not required to reimburse.

The counties shall not be required to reimburse the state department for any portion of old-age assistance, medical assistance, aid to needy dependent children or aid to needy blind or aid to the totally disabled paid to ward Indians *or for any payment on behalf of any person in a state operated medical institution,* further provided that the

Federal government may reimburse for ward Indian relief.

federal government may reimburse the state of Montana in behalf of counties, providing general relief to ward Indians, a sum in lieu of taxes which the counties would collect if the lands of such ward Indians were not in trust

HeinOnline -- 1971 vol. II 1066 1971

status. A ward Indian is hereby defined as an Indian who is living on an Indian reservation set aside for tribal use, or is a member of a tribe or nation accorded certain rights and privileges by treaty or by federal statutes. If and when the Federal Social Security Act is amended to define a "ward Indian," such definition shall supersede the foregoing definition." Ward Indian defined.

Section 5. Section 71-1519, R.C.M., 1947, is amended to read as follows: Amending clause.

"71-1519. **County share of participation.** Each county department shall reimburse the state department in the amount of one-half (½) of the approved medical payments paid by the state department in behalf of persons in the county each month, exclusive of the federal share *except such persons who are patients, inmates or residents of state operated institutions.* Such reimbursements shall be credited to the medical assistance account of the state department." County reimbursement of one-half of medical payments. Deposit.

Section 6. Section 71-402, R.C.M., 1947, is amended to read as follows: Amending clause.

"71-402. **Eligibility requirements for old-age assistance.** Old-age assistance shall be granted any person who: Eligibilty requirements—old age assistance.

(a) Has attained the age of sixty-five (65); Age 65.

(b) Has income which is inadequate to provide a reasonable subsistence compatible with decency and health; Inadequate income.

(c) Has been a resident of the state of Montana for at least five (5) years during the nine (9) years immediately preceding his application for old age assistance; State resident for 5 years.

(d) Has resided in and been an inhabitant of the state and county in which application is made for at least one (1) year immediately preceding the date of receipt of this assistance. Any person otherwise qualified who has resided in the state for five (5) years or more during the nine (9) years immediately preceding the application, one (1) year of which state residence shall have been immediately prior to the date of receipt of this assistance, and who has no legal county residence, shall file his application in the county in which he is residing, and his assistance shall be paid entirely from state funds until he can qualify as having a legal residence in the said county; Residency.

HeinOnline -- 1971 vol. II 1067 1971

Not an inmate.

(e) Is not at the time of receiving assistance an inmate of any public institution, except as a patient in a public medical institution; is not a patient in an institution of tuberculosis or mental illness or is not a patient in a medical institution as a result of having been diagnosed as having tuberculosis or psychosis; *however, this does not preclude medical payments made to any institution in behalf of any eligible resident thereof in conformity with the provisions of sections 71-1512 through 71-1524, R.C.M., 1947, as amended;*

Does not preclude medical payments.

No transfer of property within 5 years.

(f) Has not made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this act at any time within five (5) years immediately prior to the filing of application for assistance pursuant to the provisions of this act;

Is not receiving other aid.

(g) Is not receiving aid to dependent children, aid to needy blind or aid to the permanently and totally disabled, for himself or herself."

Amending clause.

Section 7. Section 71-604, R.C.M., 1947, is amended to read as follows:

Eligibility—aid to needy blind.

"71-604. **Eligibility for aid to needy blind.** Aid shall be granted under this chapter to any person who:

Defective vision.

(a) Has no vision or whose vision with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who has been examined and so certified by a fully licensed ophthalmologist or by a fully licensed optometrist;

Inadequate income.

(b) Has income which is inadequate to provide a reasonable subsistence compatible with decency and health except that in determining need, the department may disregard earned income, as is provided in the Federal Social Security Act;

Is not receiving other aid.

(c) Is not receiving old age assistance, aid to dependent children or aid to the permanently and totally disabled, for himself or herself;

Residency.

(d) Has resided in the county in which application is made for at least one (1) year immediately preceding receipt of this assistance. Any person otherwise qualified who has resided in the state for five (5) years or more within the nine (9) years immediately preceding the application, one (1) year of which state residence shall have

HeinOnline -- 1971 vol. II 1068 1971

been immediately prior to the date of receipt of this assistance, and who has no legal county residence, shall file his application in the county in which he is residing, and his assistance shall be paid entirely from state funds until he can qualify as having a legal residence in the said county;

(e) Is not an inmate of any public institution except as a patient in a public medical institution; is not a patient in an institution for tuberculosis or mental diseases or is not a patient in a medical institution as a result of having been diagnosed as having tuberculosis or psychosis; *however, this does not preclude medical payments made to any institution in behalf of any eligible resident thereof.*" Not an inmate. Does not preclude medical payments.

Section 8. Section 71-1202, R.C.M., 1947, is amended to read as follows: Amending clause.

"71-1202. **Eligibility requirements for aid to the permanently and totally disabled.** Aid to the permanently and totally disabled shall be granted any person who: Eligibility—aid to disabled.

(a) Has attained the age of eighteen (18) years; Age 18.

(b) Has income which is inadequate to provide a reasonable substistence compatible with decency and health; Inadequate income.

(c) Has been a resident of the state of Montana for at least one (1) year immediately prior to the date of receipt of this assistance. Any person otherwise qualified who has resided in a county for one (1) year shall thereby acquire residence in that county which residence shall be retained until residence is acquired in another county by residing there for one (1) year. If a person has not resided in a county for one (1) year, but has resided in the state for one (1) year, an application for this assistance shall be made in the county in which he is residing but the state shall bear the entire cost of his assistance exclusive of the federal share until he has acquired county residence; Residency.

(d) Is permanently and totally disabled as defined by the rules and regulations of the state department of public welfare; Permanently and totally disabled.

(e) Is not an inmate of a public institution, except as a patient in a public medical institution; is not a patient in an institution for tuberculosis or mental diseases, or Not an inmate.

HeinOnline -- 1971 vol. II 1069 1971

is not a patient in a medical institution as a result of having been diagnosed as having tuberculosis or psychosis; *however, this does not preclude medical payments made to any institution in behalf of any eligible resident thereof;*

Does not preclude medical payments.

Is not receiving other aid.

(f) Is not receiving old age assistance, aid to dependent children or aid to needy blind for himself or herself."

Approved March 10, 1971.

CHAPTER NO. 262.

An Act to Establish a Law Concerning Cancellation of Automobile Liability Insurance Policies.

Be it enacted by the Legislative Assembly of the State of Montana:

Auto liability insurer cannot cancel until after 30 day notice to insured.

Section 1. Notwithstanding any other provision of this code, no cancellation by an insurer of an auto liability insurance policy shall be effective prior to the mailing or delivery to the named insured at the address shown in the policy, of a written notice of the cancellation stating when, not less than thirty (30) days after the date of such mailing or delivery, the date the cancellation shall become effective.

Upon request.

Statement of grounds for cancellation.

Application to commissioner.

Section 2. Whenever an insurer gives notice of cancellation of an automobile liability policy, upon request of the insured, the insurer, within fifteen (15) days of receipt of the request, shall furnish to the insured a statement setting forth the ground or grounds upon which the notice of cancellation is based. If the insurer fails to comply with the provisions of this section, the insured may apply to the commissioner for a certificate of the facts or information desired. The commissioner shall exercise any power conferred upon him by law as may be necessary to ensure compliance with this section.

Effective grounds for cancellation.

Section 3. (1) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

(a) Nonpayment of premium; or

(b) The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an

HeinOnline -- 1971 vol. II 1070 1971

automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date.

Exemptions.

(2) This section shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(3) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars ($100) shall not be deemed a cancellation of the coverage or of the policy.

(4) This section shall not apply to nonrenewal.

30 day notice required.

Section 4. No notice of cancellation of a policy to which section 3 applies shall be effective unless mailed or delivered by the insurer to the named insured at least thirty (30) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium, at least ten (10) days' notice of cancellation accompanied by the reason therefor shall be given. Unless the reason accompanies or is included in the notice of cancellation, the notice of cancellation shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date of cancellation, the insurer will specify the reason for such cancellation.

Exception.

Duty to specify reason.

This section shall not apply to nonrenewal.

Exception.

30 day notice of intent not to renew.

Section 5. No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least thirty (30) days' advance notice of its intention not to renew. Such notice shall contain or be accompanied by a statement that upon written request made not later than one (1) month following the termination date of the policy of the named insured mailed or delivered to the insurer, the insurer will notify the insured in writing, within fifteen (15) days of his request, the reason or reasons for such nonrenewal; provided, however, that notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other re-

Duty to specify reason on request.

Termination.

HeinOnline -- 1971 vol. II 1071 1971

placement or succeeding automobile liability insurance policy procured by the insured, with respect to any automobile designated in both policies. This section shall not apply where the named insured has failed to discharge when due any of his obligations in connection with the payment of premiums for the policy, or the renewal thereof, or any installment payments therefor, whether payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit. This section shall not apply in any of the following cases:

Exemptions.

Failure to pay premiums.

Willingness to renew.

(a) If the insurer has manifested its willingness to renew.

Nonpayment.

Termination.

(b) In case of nonpayment of premium; provided that, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

Other coverage.

(c) If the insured's agent or broker has secured other coverage acceptable to the insured at least twenty (20) days prior to the anniversary date of the policy or termination of the policy period.

Renewal not waiver.

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

Proof of mailing.

Section 6. Proof of mailing of notice of cancellation, or of intention not to renew or of reasons for cancellation, to the named insured at the address shown in the policy or to the named insured's latest known address, shall be sufficient proof of notice.

Penalties for violations.

Section 7. Any insurer willfully violating any provisions of section 4 is guilty of a misdemeanor and is punishable by a fine of not exceeding five hundred dollars ($500) for each violation thereof.

Nonliability.

Section 8. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the insurance commissioner or against any insurer, its authorized representative, its agents, its employees or any firm, person, or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or for statements

HeinOnline -- 1971 vol. II 1072 1971

made or evidence submitted at any hearings conducted in connection therewith.

Approved March 10, 1971.

CHAPTER NO. 263.

An Act to Amend Sections 75-7125 and 75-8305, R.C.M., 1947, to Allow Trustees of School Districts to Employ Licensed Attorneys to Assist the County Attorney in Connection with School Board Business.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-7125, R.C.M., 1947, is amended to read as follows:

"75-7125. **County attorney to assist in the proceedings.** The trustees of any school district conducting bond proceedings shall prepare and maintain a transcript of their bond proceedings. It is a part of the official duties of the county attorney of every county of this state to advise and assist the trustees of each school district of his county in its bond proceedings. Before any transcript of school district bond proceedings is sent to the state board of land commissioners, he shall carefully examine such transcript, and the transcript shall not be sent until he has attached his opinion to the transcript that the proceedings are in full compliance with law. *The trustees of any school district, however, may, upon consent of the county attorney, employ any attorney licensed in Montana to assist the county attorney in the performance of his duties.*"

Transcript of bond proceedings.

Duty of county attorney to assist.

Opinion.

Trustees may employ other counsel.

Amending clause.

Section 2. Section 75-8305, R.C.M., 1947, is amended to read as follows:

"75-8305. **Duty of county attorney.** *Upon request of the county superintendent or the trustees of any school district, the* county attorney shall be *their* legal adviser and shall prosecute and defend all suits to which such persons, in their capacity as public officials, may be a party, *however, the trustees of any school district may, upon consent of the county attorney, employ any attorney licensed in Montana to perform any legal services in connection with school board business.*"

Upon request—duty of county attorney to county superintendent and school trustees.

Employment of other counsel.

Approved March 10, 1971.

HeinOnline -- 1971 vol. II 1073 1971

CHAPTER NO. 264.

An Act to Include Payment for Clothing and Personal Needs by the County for the Care of Dependent and Neglected Children, Amending Sections 10-524 and 10-525, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 10-524, R.C.M., 1947, is amended to read as follows:

"10-524. **Payment for board,** *clothing, personal needs,* **and room of dependent and neglected children—reimbursement by county.** Whenever agreements are entered into by the department of public welfare for placing dependent and neglected children in approved family foster homes or licensed private institutions, it shall be the duty of the state department to pay by its check or draft, each month, from any funds appropriated for that purpose, the entire amount agreed upon for board, *clothing, personal needs,* and room of such children.

Duty of department of public welfare to pay for foster care.

Monthly claim to county for one-half.

On or before the twentieth of each month the state department shall present a claim to the county of residence of such children for one-half the payments so made during the month. The county must make reimbursement to the state department within twenty days after such claim is presented."

Division—recovery from parents.

"10-525. **Recovery from parents — division between state and county.** In the event any recovery is made from the parent or parents of children for whom board, *clothing, personal needs* and room has been paid by the state and county any amount so recovered shall be divided equally between the state department and the county of residence of such child or children."

Approved March 10, 1971.

CHAPTER NO. 265.

An Act Amending Section 25-605, R.C.M., 1947, to Increase the Salaries of County Treasurers, Clerk and Recorder, Clerk of the Court, County Attorneys, Sheriffs, County Assessors, County Superintendents of

HeinOnline -- 1971 vol. II 1074 1971

Schools, and of County Surveyors in Counties Where County Surveyors Now Receive Salaries.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 25-605, R.C.M., 1947, is amended to read as follows: Amending clause.

"25-605. **Salaries of certain county officers.** The salaries of county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county assessors, county superintendents of schools, and of county surveyors in counties where county surveyors now receive salaries as provided in section 16-3302, shall be based on the population and taxable valuation of the county in accordance with the following schedule: Salaries of certain county officers based on population and taxable valuation.

Schedule.

Population of County	Salary Col. A
Below 3,000	*$3,060*
3,000 to 3,999	*$3,150*
4,000 to 4,999	*$3,220*
5,000 to 5,999	*$3,290*
6,000 to 6,999	*$3,370*
7,000 to 7,999	*$3,590*
8,000 to 8,999	*$3,650*
9,000 to 9,999	*$3,740*
10,000 to 12,499	*$3,800*
12,500 to 14,999	*$3,880*
15,000 to 17,499	*$3,960*
17,500 to 19,999	*$4,030*
20,000 to 24,999	*$4,100*
25,000 to 29,999	*$4,170*
30,000 to 39,999	*$4,250*
40,000 to 49,999	*$4,360*
50,000 to 59,999	*$4,510*
60,000 to 69,999	*$4,670*
70,000 to 79,999	*$4,800*
80,000 to 89,999	*$4,950*
90,000 to 99,999	*$5,100*
100,000 and over	*$5,260*

Taxable Valuation of county	Salary Col. B
Below $2,000,000	*$3,060*
2,000,000 to 2,999,999	*$3,150*
3,000,000 to 3,999,999	*$3,220*

HeinOnline -- 1971 vol. II 1075 1971

4,000,000 to 4,999,999	*$3,290*
5,000,000 to 5,999,999	*$3,370*
6,000,000 to 6,999,999	*$3,590*
7,000,000 to 7,999,999	*$3,650*
8,000,000 to 9,999,999	*$3,740*
10,000,000 to 11,999,999	*$3,800*
12,000,000 to 13,999,999	*$3,880*
14,000,000 to 15,999,999	*$3,960*
16,000,000 to 17,999,999	*$4,030*
18,000,000 to 19,999,999	*$4,100*
20,000,000 to 22,499,999	*$4,170*
22,500,000 to 24,999,999	*$4,250*
25,000,000 to 29,999,999	*$4,360*
30,000,000 to 34,999,999	*$4,510*
35,000,000 to 39,999,999	*$4,670*
40,000,000 to 44,999,999	*$4,800*
45,000,000 to 49,999,999	*$4,950*
50,000,000 to 54,999,999	*$5,100*
55,000,000 to 59,999,999	*$5,260*
60,000,000 to 64,999,999	*$5,260*
65,000,000 to 69,999,999	*$5,260*
70,000,000 to 74,999,999	*$5,260*
75,000,000 to 79,999,999	*$5,260*
80,000,000 to 84,999,999	*$5,260*
85,000,000 to 89,999,999	*$5,260*
90,000,000 to 94,999,999	*$5,260*
95,000,000 to 99,999,999	*$5,260*
100,000,000 and over	*$5,260*

Computation. The total salary paid to county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county assessors, county superintendents of schools and county sheriffs, and county surveyors in counties where county surveyors receive salaries, as provided in section 16-3302, shall be the sum of the salary shown in column A based on population when added to the salary shown in column B based on taxable valuation; provided, however, Exceptions. that county superintendents of schools *and county sheriffs* shall receive, in addition to the salary based upon the $400 per year. totals of columns A and B above, the sum of four hundred dollars ($400) per year.''

Approved March 10, 1971

HeinOnline -- 1971 vol. II 1076 1971

CHAPTER NO. 266

An Act Amending Sections 84-2412 and 84-3508, R.C.M. 1947, to Delete Provisions Enabling the State Board of Equalization to Pay Operating Expenses Out of Fees Collected Prior to Their Deposit as Revenue to the General Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-2412, R.C.M., 1947, is amended to read as follows: Amending clause.

"84-2412. **Employment of help — disposal of license money.** The state board of equalization is hereby authorized to employ such clerical and field assistance as may be found necessary to carry out and to administer the provisions of this act. All money collected under the provisions of this act shall be paid into the state treasury, to the credit of the general fund." Employment of help. Deposit of monies.

Section 2. Section 84-3508, R.C.M., 1947, is amended to read as follows: Amending clause.

"84-3508. *D*isposal of fees. All moneys collected hereunder shall be deposited by the registrar with the state treasurer, who shall credit them to the general fund of the state." Deposit of monies.

Approved March 10, 1971

CHAPTER NO. 267

An Act to Amend Sections 59-701.1, 59-701.2, and 82-109, R.C.M., 1947, to Provide for the Implementation of a Modified Accrual Basis of Accounting for State Expenditures Pursuant to the Provisions of House Joint Resolution Number 9, Adopted by the 1969 Legislative Assembly.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 59-701.1, R.C.M., 1947, is amended to read as follows: Amending clause.

"59-701.1. **Reappropriation** *of valid obligations* **at end of each fiscal year.** *Purchase* orders issued *and accrued expenses approved* by the state controller *shall be* encum- Purchase orders, accrued expenses encumbered.

HeinOnline -- 1971 vol. II 1077 1971

bered at the end of each fiscal year in the state controller's accounts, *and are hereby* reappropriated *for* the succeeding fiscal year.''

Reappropriation.

Amending clause.

Section 2. Section 59-701.2, R.C.M., 1947, is amended to read as follows:

''59-701.2. *Obligations at fiscal year end shall be encumbered.* Any *valid obligation* not paid within the fiscal year shall *be encumbered for payment thereof at the end of each fiscal year in the state controller's accounts. An appropriation shall be deemed to be encumbered at the time and to the extent that a valid obligation against the appropriation is created, except construction contracts, which upon approval of the state controller, may be encumbered for only that portion of the contract for which services or materials have been received by the fiscal year's end.''*

Valid obligations encumbered.

Limitation.

Amending clause.

Section 3. Section 82-109, R.C.M., 1947, is amended to read as follows:

''82-109. **Duties of controller — expenditure control.** (a) The controller shall establish a system of financial control to the end that the functioning of the various departments of the state may be improved, that duplications of work done by different state departments and employees may be eliminated, the public service improved, and the cost of government reduced.

Financial control.

(b) It shall be the duty of the controller to apply expenditures against *nongeneral fund moneys* wherever possible before using the general fund appropriations.

Duty to apply nongeneral funds.

(c) The controller may, when authorized by the governor, require a quarterly allotment system of expenditure for any office, department, bureau, commission, institution or agency. The amount of the respective appropriation made by the legislative assembly shall then, except with respect to items of capital outlay and repairs and replacement, be made available to such office, department, bureau, commission, institution or agency in quarterly allotments, provided, however, that the quarterly allotment shall be based on the requirements of that office, department, bureau, commission, institution or agency during that quarter based on previous experience of that office, department, bureau, commission, institution and agency and not on a prorata quarterly basis.

Controller may require quarterly allotment system.

HeinOnline -- 1971 vol. II 1078 1971

(d) Notwithstanding any other provision of law, the state controller may establish procedures necessary to insure that expenditures are made and accounted for in accordance with the budget plan authorized by the legislative assembly in the enactment of the appropriations, including, but not limited to, procedures to accrue expenses incurred in one fiscal period and paid in a subsequent fiscal period, and procedures for the issuance of purchase orders or contracts to be paid from succeeding year appropriations that will become available within three (3) months from the date of the issuance of the purchase order or contract."

Procedures in accordance with budget plan.

Approved March 10, 1971

CHAPTER NO. 268

An Act to Amend Sections 79-414, 79-415, 79-603, and 82-110, R.C.M., 1947, to Establish More Precise Fiscal Control Measures and Accounting Procedures.

Section 1. Section 79-414, R.C.M., 1947, is amended to read as follows:

Amending clause.

"79-414. **Maintenance of fund and account records — accounting procedures.** (1) The state treasurer shall record receipts and disbursements for treasury funds, and shall maintain fund records in such a manner as to reflect the total cash and invested balance of each fund. The state treasurer shall also maintain records of individual subfunds within the sinking fund, bond proceeds and insurance clearance fund, and trust and legacy fund in such a manner as to reflect the total cash and invested balance of each subfund. When necessary to meet federal or other requirements that moneys be segregated in the treasury, the state treasurer may establish subfunds within any funds listed in section 79-410.

Duties of state treasurer—fund records.

Subfund records.

(2) The state controller shall record receipts and disbursements for treasury funds and for accounts within treasury funds, and shall maintain records in such a manner as to reflect the total cash and invested balance of each fund and each account. The controller shall adopt the necessary procedures to insure that interdepartmental or intradepartmental transfers of money do not result in inflation of figures reflecting total governmental costs and revenues.

Accounts within treasury funds.

Transfer procedures.

HeinOnline -- 1971 vol. II 1079 1971

(3) When the expenditure of an appropriation is necessary, and the cash balance in the account from which the appropriation was made is insufficient, the state controller may authorize a transfer, as a temporary loan bearing no interest, of unrestricted moneys from other accounts, provided that there is reasonable evidence that the income provided for the remainder of the fiscal year will be sufficient to restore the amount so transferred, and provided the loan is recorded in the state accounting records. No account shall be so impaired that all proper demands thereon cannot be met.

May authorize transfers.

Limitations.

(4) When moneys have been appropriated from several sources for the operation of a state agency, the state controller may establish an account to receive, hold and disburse all moneys appropriated for the operation of the agency and regulate the transfer of moneys to the account in accordance with the laws governing the expenditure of state moneys."

May establish accounts.

Amending clause.

Section 2. Section 79-415, R.C.M., 1947, is amended to read as follows:

"79-415. **Appropriation and disbursement of moneys from the treasury.** (1) Moneys deposited in the general fund, the earmarked revenue fund, the revolving fund, and the federal and private revenue fund, with the exception of trust income *and refunds authorized in subsection (3) of this act,* shall be paid out of the treasury only on appropriation made by law.

Moneys paid out on appropriation only.

(2) Moneys deposited in the federal and private grant clearance fund, the sinking fund, the bond proceeds and insurance clearance fund, the trust and legacy fund and the agency fund may be paid out of the treasury under general laws, or contracts entered into in pursuance of law, permitting such disbursement.

Moneys paid out under law or contract.

(3) Money paid into the state treasury through error or under circumstances such that the state is not legally entitled to retain it, and a refund procedure is not otherwise provided by law, may be refunded upon the submission of a verified claim approved by the state controller.

Refunds.

(4) For the purpose of supplying deficiencies in the general fund, the state treasurer may temporarily borrow from other treasury funds, providing that the loan is recorded in the state accounting records. Such loan shall

State treasurer may borrow for general fund.

HeinOnline -- 1971 vol. II 1080 1971

bear no interest and no fund shall be so impaired that all proper demands thereon cannot be met.''

Section 3. Section 79-603, R.C.M., 1947, is amended to read as follows: Amending clause.

"79-603. **State** *agencies* **may retain certain moneys, when.** The state controller may in his discretion permit any state *agency* to retain in its possession, under such conditions as the state controller may prescribe, *moneys that would otherwise be deposited in the agency fund as defined in the treasury fund structure act.* The state controller may cancel such permission and require the deposit of any or all such *moneys* with the state treasurer at his pleasure, provided, however, that the state treasurer, with the consent of the state depository board, shall designate depositories for such *moneys* and securities, and require indemnifying bonds or pledged securities sufficient to adequately and properly secure the amounts deposited in said depositories.'' State agency may retain moneys. Cancellation. Depositories. Bonds.

Section 4. Section 82-110, R.C.M., 1947, is amended to read as follows: Amending clause.

"82-110. **Controller to prescribe uniform accounting system** (a) The controller shall prescribe and install uniform accounting and reporting for the several state boards, bureaus, departments, commissions and institutions showing the receipt, use and disposition of all public money and property, and shall develop plans for improvements and economies in the organization and operation thereof which shall be submitted to the respective heads of such boards, bureaus, departments, commissions and institutions. Copies of all such plans shall be delivered to the governor and additional copies shall be retained in the office of the controller for inspection by the members of the legislative assembly. Uniform accounting and reporting. Plans. Distribution.

(b) The controller shall have the power and it shall be his duty to examine into all financial affairs of every state board, commission, bureau, department and institution for the purpose of developing plans for improvements and economies in the organization and operation thereof, and for the purpose of enabling him to properly perform any of the duties imposed upon him by this act. Duty to examine financial affairs. Plans.

(c) The controller may establish procedures for cancelling and writing off accounts receivable carried on Procedures—write-offs.

HeinOnline -- 1971 vol. II 1081 1971

the books of various state agencies which are uncollectible or the continued pursuance of the collection thereof would cost the state more than the amount collected. Such procedures shall include the reporting of such cancelling and writing off of accounts receivable to the next session of the Legislative Assembly.

Minimum refunds.

(d) When not specifically provided by law, the controller may establish a minimum amount which shall be paid on a refund due from the various agencies of the state, and no refund amounting to less than the established minimum shall be paid except upon the specific written request of the person entitled to receive the refund.

Controller may require immediate deposit.

(e) Notwithstanding any other provision of state law, when it is determined to be in the best financial interest of the state, the controller shall have the authority to require any moneys received or collected by any agency of the state to be immediately deposited to the credit of the state treasurer.

Duty to provide access to records.

(f) All officers, employees and other persons connected with the fiscal affairs of any state office, board, bureau, department, commission or institution must afford all reasonable facilities for the examination of accounts and investigations provided for in this act, and must make reports, returns and exhibits relating to such fiscal matters to the controller in such form as he shall prescribe; and the controller shall have and keep in his office the names of and amount of salary paid to each person regularly employed by the state of Montana and every agency thereof.

Violations.

(g) If any officer or employee of the state or any agency thereof shall refuse or neglect to comply with

Salary withheld.

subdivision *(f)* of this section, the salary of such officer or employee shall, on request of the controller to the proper official, be withheld until such recreant officer or employee shall comply therewith and the controller certifies approval to the disbursing officer."

Approved March 10, 1971

CHAPTER NO. 269

An Act to Amend Section 79-1202, R.C.M., 1947, to Provide that Moneys in the Long and Short Term Investment Funds May Be Invested in Interest Bearing Cer-

HeinOnline -- 1971 vol. II 1082 1971

tificates of Deposit and to Provide that Moneys in the Long Term Investment Fund May Be Invested in Obligations of the United States Postal Service.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 79-1202, R.C.M., 1947, is amended to read as follows: Amending clause.

"79-1202. **Moneys to be invested according to unified plan.** 1. The state board of land commissioners is hereby authorized and required to invest the Montana trust and legacy fund subject to the provisions, regulations and limitations of sections 81-1001 to 81-1008, inclusive. Duty to invest trust and legacy fund.

2. The state board of land commissioners is hereby authorized and required to invest in the long term investment fund the following: Moneys administered by the Montana highway patrolmen's retirement board in excess of twenty-five thousand dollars ($25,000); moneys administered by the public employees' retirement board; moneys administered by the industrial accident board; all moneys subject to investment as designated by the teachers' retirement board; moneys designated as available by the Montana fish and game commission and all other moneys designated by statute. Moneys in the long term investment fund may be invested as follows: Long term investment fund. State moneys.

(a) In or upon securities which are direct obligations of the United States government; securities which are guaranteed as to principal and interest by the United States government; securities issued by instrumentalities of the United States government. Federal securities.

(b) In general obligation bonds of school districts within the state of Montana; in general obligation bonds of the several counties and cities of the state of Montana; in general obligation bonds of the state of Montana; in capitol building bonds of the state of Montana, now issued or which may hereafter be issued; in bonds issued by the federal land banks; in bonds *now or hereafter authorized by the legislature to be* issued by the state board of examiners; in interest-bearing warrants upon the general fund of the state and in interest-bearing warrants upon the general fund, the poor fund, the road fund, the retirement fund, or upon the bridge fund of the several counties and school districts of the state of Montana; the purchase of all such investments to be subject to the discretion of the board. Bonds.

HeinOnline -- 1971 vol. II 1083 1971

Federal agency obligations.

(c) In the obligations, and/or stock where stated, of the following agencies of the government of the United States of America, whether or not such obligations are guaranteed by such government;

(1) Commodity credit corporation.

(2) Federal intermediate credit banks.

(3) Federal land banks.

(4) Central bank for co-operatives.

(5) Federal home loan banks, and stock thereof.

(6) Federal national mortgage association, and stock thereof when acquired in connection with sale of mortgage loans to such association.

(7) United States postal service.

First mortgages.

(d) In first mortgages on unencumbered real property when such mortgages are guaranteed or insured in the amount of thirty per centum (30%) or more of the loan made in the event of default by the United States government or any agency or corporate agency of the United States government and in obligations of housing authorities subject to the terms and limitations of section 35-143, and in unencumbered real property, and in first mortgages of unencumbered real property, not exceeding seventy-five per cent (75%) of the value of the property, provided, however, no more than fifty per centum (50%) of the funds in one (1) account shall be invested in such mortgages and real property.

First mortgage bonds, debentures.

(e) In first mortgage bonds, debentures, notes and other evidences of indebtedness issued, assumed or guaranteed by any solvent and operating corporation existing under the laws of the United States of America or any state thereof which bonds, debentures, notes and other evidences of indebtedness are, at the time of such investment, within the three (3) highest quality grades for the rating of such bonds, debentures, notes and other evidences of indebtedness by any nationally recognized investment rating agency.

Equipment trust obligations.

(f) In equipment trust obligations or certificates adequately secured and evidencing an interest in transportation equipment, wholly or in part within the United States of America, which obligations or certificates carry the right to receive determined portions of rental, purchase, or other

HeinOnline -- 1971 vol. II 1084 1971

fixed obligatory payments to be made for the use or purchase of such transportation equipment, and which obligations or certificates are, at the time of such investment, within the three (3) highest quality grades for the rating of such obligations or certificates by any nationally recognized investment rating agency.

(g) In interest-bearing deposits in banks located in the state of Montana; provided, however, that the state treasurer, with the consent of the state depository board, shall designate depositories for such interest-bearing deposits and require pledged securities as specified in section 79-301, R.C.M., 1947, that interest on said deposits shall not be less than the prevailing rate of interest being paid on deposits of private funds. Bank deposits.

All securities purchased and all cash on hand for each fund shall be kept separate in the long term investment fund and all interest collected shall be credited to the fund for which the securities were purchased. Separate fund records.

3. The state board of land commissioners is hereby authorized and required to invest in the short term investment fund any surplus cash in the office of the state treasurer; any money in the sinking fund, which is not required for the immediate payment of any bond principal or interest, or which cannot be used for payment and redemption of bonds outstanding because of the same not being redeemable under the option provisions contained therein; any Montana highway patrolmen's retirement moneys less than twenty-five thousand dollars ($25,000) as directed by the Montana highway patrolmen's retirement board and any other moneys designated by statute to be so invested or any moneys in the custody of any officer or officers of the state, or any governing body of any city, county or school district, the investment of which moneys is requested by the officer, or officers or governing body and which moneys are subject to investment. The moneys in the short term investment fund may be invested as follows: Short term investment fund—state moneys.

(a) The surplus cash in the office of the state treasurer may be invested in registered warrants of the state of Montana, *in interest-bearing deposits in banks located in the state of Montana that are deposited in accordance with the requirements and procedures that are specified in section 79-301, R.C.M., 1947, that interest on said de-* Warrants. Bank deposits.

HeinOnline -- 1971 vol. II 1085 1971

posits shall not be less than the prevailing rate of interest being paid on deposits of private funds, and in treasury obligations of the United States government. All warrants purchased shall bear no interest and the interest received from treasury obligations shall be credited to the general fund of the state of Montana.

Government bonds.

(b) Any sinking fund and any other moneys may be invested in bonds of the state of Montana, bonds of the United States, in bonds issued by any agency or department of the United States, treasury obligations of the United States, in interest-bearing warrants drawn against the general fund of the state of Montana; *and in interest-bearing deposits in banks located in the state of Montana; provided, however, that the state treasurer, with the consent of the state depository board, shall designate depositories for such interest-bearing deposits and require pledged securities as specified in section 79-301, R.C.M., 1947; that interest on said deposits shall not be less than the prevailing rate of interest being paid on deposits of private funds;* provided *further,* however, that none of such moneys in the sinking fund shall be invested in bonds, *interest-bearing deposits* or securities except such as will be called in and paid prior to the time such moneys are required for the payment of principal and interest.

Bank deposits.

Depositories.

Pledged securities.

Limitation.

Separate account or subfund.

All securities purchased and all cash on hand for each account or subfund shall be kept separate in the short term investment fund and all interest collected shall be credited to the account or subfund for which the securities were purchased.

Employment of fiscal expert.

The state board of land commissioners is hereby authorized to employ, for the purpose of securing advice on retention, sale or purchase of securities, an expert on financial matters who had a minimum of ten (10) years' experience in the investment field. The said board is also authorized to abtain financial and investment counsel and services from qualified persons and sources on a fee or contract basis."

Counsel.

Approved March 10, 1971

CHAPTER NO. 270

An Act to Amend Section 79-2312, R.C.M., 1947, Providing that State Agencies Shall Assist the Legislative

HeinOnline -- 1971 vol. II 1086 1971

Auditor in Obtaining Information for Audit Purposes; Repealing Section 79-2313, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 79-2312, R.C.M., 1947, is amended to read as follows: Amending clause.

"79-2312. **Information from state agencies.** All state agencies shall aid and assist the legislative auditor in the auditing of books, accounts and records. The legislative auditor may examine at any time the books, accounts and records, confidential or otherwise, of a state agency; however, this shall not be construed as authorizing the publication of information which the law prohibits publishing. *The head of each state agency shall immediately notify the legislative auditor in writing upon the discovery of any larceny, or embezzlement, actual or suspected involving state moneys or property under his control or for which he is responsible.*" Duty to assist legislative auditor. Examinations. Duty to notify auditor of larceny or embezzlement.

Section 2. Section 79-2313, R.C.M., 1947, is hereby repealed. Repealing clause.

Approved March 10, 1971

CHAPTER NO. 271

An Act to Revise the Sanitarians Registration Council Act by Placing Administration of the Act with the Department of Health Under Policy Guidance from the Board of Health; Amending Sections 69-3401, 69-3402, 69-3403, 69-3404, 69-3405, 69-3407, 69-3408, and 69-3409, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 69-3401, R.C.M., 1947, is amended to read as follows: Amending clause.

"69-3401. **Definitions.** "Board" means the Montana state board of health. "Council" means the sanitarians *advisory* council. "Sanitarian" is a person who is trained in physical, biological and sanitary sciences to carry out inspectional and educational duties in the field of environmental *health.* "Registered sanitarian" is a sanitarian registered in accordance with the provisions of this act. "Certificate of registration" is a document showing the Definitions. "Board." "Council." "Sanitarian." "Registered sanitarian." "Certificate of registration."

HeinOnline -- 1971 vol. II 1087 1971

name of a registered sanitarian, the date of issue, serial number, and bearing the signatures of the designated members of the *department* hereby authorized to grant such certificate and under the seal of *the board.* *"Department"* *means the Montana state department of health."*

"Department."

Amending clause.

Section 2. Section 69-3402, R.C.M., 1947, is amended to read as follows:

Jurisdiction of board.

Administration.

Records.

Prima facie evidence.

Rules and regulations.

"69-3402. Administration of Chapter. (1) The board shall assume jurisdiction over all activities and records of what was formerly titled the sanitarians registration council. A department staff sanitarian or sanitarians shall under guidance of the board as to matters of policy be responsible for administration of the provisions of this chapter and serve as secretary for the council. The department shall maintain a record of all registration activities and a register disclosing names, dates, and addresses of all applicants for a certificate. Such register shall constitute prima facie evidence of all matters therein entered. The board may adopt such rules and regulations not inconsistent with this act as it determines are necessary and proper for its function and administration.

Governor shall appoint advisory council.

Qualifications.

(2) The governor shall appoint a sanitarian advisory council to consult with the board in administration of statutes relating to registration of sanitarians. (a) The council shall consist of three (3) registered sanitarians living and working in Montana.

Terms of office.

(b) Members of the first council shall serve for one (1), two (2), or three 3) years as designated by the board. After initial appointments, appointed members shall serve for three (3) year terms. Appointments for unexpired terms shall be for the remainder of the term.

Expenses.

(c) The council shall serve without compensation but shall be reimbursed for their actual and necessary traveling and other expenses while engaged in the business of the council.

Meetings.

(d) The council shall appoint a chairman and shall conduct at least two (2) regular meetings each calendar year."

Amending clause.

Section 3. Section 69-3403, R.C.M., 1947, is amended to read as follows:

Application for registration.

"69-3403. **Application for registration by examination.** Any person, upon the payment of the fees prescribed

HeinOnline -- 1971 vol. II 1088 1971

herein, may apply to the *department* for registration on forms provided for that purpose. Each applicant shall submit evidence and prove to the satisfaction of the *board* that he meets the following qualifications for registration hereunder. (a) That he or she has qualified, as required by the board, and successfully passed the examination for sanitarian 1 *classification* or higher. *(b)* The *department* shall issue a certificate of registration to all applicants who meet the above qualifications. *(c)* An applicant for examination may, in the discretion of the *board,* be given a temporary certificate to practice as a registered sanitarian prior to taking the examination. The term of such certificate shall not exceed one (1) year."

Qualifications.

Examination.

Certificate of registration.

Temporary certificate.

Section 4. Section 69-3404, R.C.M., 1947, is amended to read as follows:

Amending clause.

"69-3404. **Fees.** Applicants for registration shall pay a fee of twenty dollars ($20.00) at the time of making application. A sanitarian registered under the provisions of this act may renew his certificate by paying the annual fee as set by the board, but not to exceed ten dollars ($10.00). All fees collected shall be paid to the board *held in a special fund and shall be used to defray the cost of administration of this act in accordance with a budget developed by the board.* All fees shall be due and payable on or before the first day of July for the current year for which the renewal certificate shall be issued. All certificates shall expire on the renewal date unless renewed prior to such date. Registrations which have lapsed for failure to pay renewal fees may be reinstated under regulations adopted by the *board.*"

Fee $20.

Annual renewal.

Deposit.

Due July 1.

Expiration.

Reinstatement.

Section 5. Section 69-3405, R.C.M., 1947, is amended to read as follows:

Amending clause.

"69-3405. **Revocation or suspension.** The *board* shall have the power to revoke or suspend the certificate of registration of any registrant for unprofessional conduct or the practice of any fraud or deceit in obtaining registration, or any gross negligence, incompetency or misconduct in the practice *as a* professional *sanitarian,* or upon the conviction of any crime involving moral turpitude, provided, however, that no revocation of certificate shall become effective until after a hearing, duly noticed, is held and the registrant given the opportunity to appear in person or by counsel and to answer the charges which

Power to revoke or suspend for cause.

Notice—hearing.

HeinOnline -- 1971 vol. II 1089 1971

have been filed against him with the *board* and to produce evidence and witnesses on his behalf and to cross-examine witnesses."

Amending clause.

Section 6. Section 69-3407, R.C.M., 1947, is amended to read as follows:

Reciprocity.

Application.

Fee $20.

Proof.

"69-3407. **Reciprocity.** The *department* shall issue a certificate of registration without examination to any person who makes application on forms prescribed and furnished by the *department,* pays the registration fee of twenty dollars ($20) and submits satisfactory proof that: (1) he is of good moral character; (2) he is registered as a sanitarian in a state in which the qualifications for registration are not lower than the qualifications for registration in this state at the time he applies for registration."

Amending clause.

Section 7. Section 69-3408, R.C.M., 1947, is amended to read as follows:

Review by district court.

"69-3408. **Appeal procedure.** Any party aggrieved by any decision or act of the *board* may seek a review thereof in the district court of the first judicial district of the state of Montana in the manner set forth in sections 93-9001 to 93-9011, *inclusive, R.C.M., 1947,* and said court shall affirm, reverse, or modify the findings of said board in accordance with law."

Amending clause.

Section 8. Section 69-3409, R.C.M., 1947, is amended to read as follows:

Service of process.

"69-3409. **Service of process.** When any petition or complaint is filed in any court naming the *board* as a party, process may be served upon the said *board* by delivering to and leaving with the *board* a true copy of the summons, writ, or order, as the case may be, and a true copy of the complaint, petition, or application upon which such summons, writ, or order was based."

Approved March 10, 1971

CHAPTER NO. 272.

An Act to Reorganize the Executive Department of Montana State Government in Accordance with the Constitutional Amendment, Chapter 1 of the Extraordinary Session, Laws of Montana, 1969, Adopted at the Gen-

HeinOnline -- 1971 vol. II 1090 1971

eral Election of November 3, 1970, and Effective Under the Governor's Proclamation, November 20, 1970, which Provides that: 'All Executive and Administrative Offices, Boards, Bureaus, Commissions, Agencies and Instrumentalities of the Executive Department of State Government and their Respective Functions, Powers, and Duties. Except for the Office of Governor, Lieutenant Governor, Secretary of the State, Attorney General, State Treasurer, State Auditor, and Superintendent of Public Instruction, Shall Be Allocated by Law Among and Within not More than Twenty (20) Departments by No Later Than July 1, 1973.'; and Repealing Sections 27-427, 59-901, and 59-902, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a Title 82A in the Revised Codes of Montana, 1947, which provides:

"TITLE 82A. STATE REORGANIZATION OF EXECUTIVE DEPARTMENT

CHAPTER 1. GENERAL PROVISIONS

"Executive Reorganization Act of 1971."

82A-101. **Short Title.** This act shall be known and may be cited as the "Executive Reorganization Act of 1971."

Purpose of Act.

82A-102. **Declaration of Policy and Purpose.** (1) The purpose of this act is to comply with the constitutional amendment, chapter 1 of the extraordinary session, laws of Montana, 1969, adopted at the general election of November 3, 1970, and effective under the governor's proclamation, November 20, 1970, which requires that "[a]ll executive and administrative offices, boards, commissions, agencies and instrumentalities of the executive department of state government and their respective functions, powers, and duties, except for the office of governor, lieutenant governor, secretary of the state, attorney general, state treasurer, state auditor, and superintendent of public instruction, shall be allocated by law among and within not more than twenty (20) departments by no later than July 1, 1973."

Decalaration of policy.

(2) It is the public policy of this state and the purpose of this act to create a structure of the executive department of state government which is responsive to the needs of

HeinOnline -- 1971 vol. II 1091 1971

the people of this state and sufficiently flexible to meet changing conditions; to strengthen the executive capacity to administer effectively and efficiently at all levels; to encourage greater public participation in state government; to effect the grouping of state agencies into a reasonable number of departments primarily according to function; to provide that the responsibility within the executive department of state government for the implementation of programs and policies is clearly fixed and ascertainable; and to eliminate overlapping and duplication of effort within the executive department of state government.

Intent of legislative assembly.

(3) It is the intent of the legislative assembly to provide, within this act, with the least disruption of governmental service and functions and the least expense, for the orderly transfer of functions of existing agencies to departments created by this act.

(4) It is further the intent of the legislative assembly not to increase, decrease, or change the statutory functions, powers, and duties of any agency existing before the effective date of this act, unless such intent is specifically expressed herein.

Definitions.

82A-103. **Definitions.** As used in this act. (1) "Executive department" means the executive department of state government referred to in the Montana constitution, articles IV and VII.

"Reorganization amendment."

(2) "Reorganization amendment" means the amendment to the Montana constitution, chapter 1 of the extraordinary session, laws of Montana, 1969, adopted at the general election of November 3, 1970, and effective under the governor's proclamation, November 20, 1970.

"Agency."

(3) "Agency" means an office, position, commission, committee, board, department, council, division, bureau, section, or any other entity or instrumentality of the executive department of state government.

"Unit."

(4) "Unit" means an internal subdivision of an agency, created by law or by administrative action, including a division, bureau, section, or department, and an agency allocated or transferred to a department for administrative purposes only by this act.

"Department."

(5) Except when used in connection with the name of an agency existing before the effective date of the applicable chapter of this act, "department" means a principal

HeinOnline -- 1971 vol. II 1092 1971

functional and administrative entity, created by this act, within the executive department of state government; is one of the twenty (20) principal departments permitted under the reorganization amendment; and includes its units.

"Department head."

(6) "Department head" means a director, commission, board, commissioner, or constitutional officer in charge of a department created by this act.

"Director."

(7) "Director" means a department head specifically referred to as a director in this act, and does not mean a commission, board, commissioner, or constitutional officer.

"Advisory capacity."

(8) "Advisory capacity" means furnishing advice, gathering information, making recommendations, and performing such other activities as may be necessary to comply with federal funding requirements, and does not mean administering a program or function or setting policy.

"Function."

(9) "Function" means a duty, power, or program, exercised by or assigned to an agency, whether or not specifically provided for by law.

"Quasi-judicial function."

(10) "Quasi-judicial function" means an adjudicatory function exercised by an agency, involving the exercise of judgment and discretion in making determinations in controversies. The term includes, but is not limited to, the functions of interpreting, applying, and enforcing existing rules and laws; granting or denying privileges, rights, or benefits; issuing, suspending, or revoking licenses, permits, and certificates; determining rights and interests of adverse parties; evaluating and passing on facts; awarding compensation; fixing prices; ordering action or abatement of action; adopting procedural rules; holding hearings; and any other act necessary to the performance of a quasi-judicial function.

"Quasi-legislative function."

(11) "Quasi-legislative function" generally means making or having the power to make rules or set rates and all other acts connected with or essential to the proper exercise of a quasi-legislative function.

"Investment function."

(12) "Investment function" means the function of placing public money where it will yield an income or revenue, and includes the functions of:

(a) Assisting agencies with public money to determine if, when, and how much surplus cash is available for investment.

HeinOnline -- 1971 vol. II 1093 1971

(b) Determining the amount of surplus treasury cash to be invested.

(c) Determining the type of investment to be made.

(d) Preparing the claim to pay for the investment.

Departments created.

82A-104. **Structure of executive department of state government.** (1) In accordance with the reorganization amendment, all executive and administrative offices, boards, commissions, agencies, and instrumentalities of the executive department of state government, and their respective functions, are allocated by this act among and within the following departments created by this act:

(a) Department of administration.

(b) Department of agriculture.

(c) Department of business regulation.

(d) Department of education.

(e) Department of health and environmental sciences.

(f) Department of highways.

(g) Department of institutions.

(h) Department of intergovernmental relations.

(i) Department of labor and inlustry.

(j) Department of state lands.

(k) Department of law enforcement and public safety.

(l) Department of livestock.

(m) Department of military affairs.

(n) Department of natural resources and conservation.

(o) Department of professional and occupational licensing.

(p) Department of public service regulation.

(q) Department of revenue.

(r) Department of social and rehabilitation services.

(s) Department of fish and game.

Constitutional offices—statutory functions continued.

(2) The governor, lieutenant governor, secretary of state, attorney general, state treasurer, state auditor, and superintendent of public instruction each head a constitutional office. Except as otherwise provided in this act, the statutory functions of each constitutional officer are continued.

HeinOnline -- 1971 vol. II 1094 1971

(3) For its internal structure, each department shall adhere to the following standard terms: Internal structure.

(a) The principal unit of a department is a "division." Each division shall be headed by an "administrator." "Division."

(b) The principal unit of a division is a "bureau." Each bureau shall be headed by a "chief." "Bureau." "Chief."

(c) The principal unit of a bureau is a "section." Each section shall be headed by a "supervisor." "Section." "Supervisor."

82A-105. **Policy-making authority and administrative powers of governor.** In accordance with article VII, section 5 of the Montana constitution, the governor is the chief executive officer of the state. Subject to the constitution and law of this state, the governor shall formulate and administer the policies of the executive department of state government. In the execution of these policies, the governor has full powers of supervision, approval, direction, and appointment over all departments and their units, other than the office of the lieutenant governor, secretary of state, attorney general, state treasurer, state auditor, and superintendent of public instruction, except as otherwise provided by law. Whenever a conflict arises as to the administration of the policies of the executive department of state government, except for conflicts arising in the office of the lieutenant governor, secretary of state, attorney general, state treasurer, state auditor, and superintendent of public instruction, the governor shall resolve the conflict, and the decision of the governor is final. Powers of governor as chief executive officer.

82A-106. **Appointment and qualifications of department heads.** (1) The governor shall appoint each department head who is a director in this act. Governor shall appoint department heads.

(2) An appointment of a director by the governor is subject to the confirmation of the senate, except that the governor may appoint a director to assume office before the senate meets in its next regular session to consider the appointment. A director so appointed is vested with all the functions of the office upon assuming the office, and is a de jure officer, notwithstanding the fact that the senate has not yet confirmed the appointment. If the senate does not confirm the appointment of a director, the governor shall make a new appointment. Confirmation by senate—interim appointment.

HeinOnline -- 1971 vol. II 1095 1971

Director serves at pleasure of governor.

(3) A director serves at the pleasure of the governor. The governor may remove a director at any time and appoint a new director to the office.

Qualifications.

(4) The governor shall select a director on the basis of his professional and administrative knowledge and experience and such additional qualifications as are provided by law.

Vacancy.

(5) If a vacancy occurs in the office of a director, the governor shall appoint a new director to serve at the pleasure of the governor.

Heads who are not directors.

(6) Heads of departments who are not directors shall be elected or appointed and serve, and their vacancies filled, as provided by law.

82A-107. **Duties and powers of department heads** (1) Except as otherwise provided in this act, each department head shall:

Duties and powers of department heads.

Supervision.

(a) Supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department by this act or other law.

Policy.

(b) Establish the policy to be followed by the department and employees.

Reports and budgets.

(c) Compile and submit reports and budgets for the department as required by law or requested by the governor.

Information.

(d) Provide the governor with any information that he requests at any time on the operation of the department.

Communications.

(e) Represent the department in communications with the governor.

Rules for administration.

(f) Prescribe rules, consistent with law and rules established by the governor, for the administration of the department; the conduct of the employees; the distribution and performance of business; and the custody, use, and preservation of the records, documents, and property pertaining to department business. The lieutenant governor, secretary of state, attorney general, state treasurer, state auditor, and superintendent of public instruction may prescribe their own rules for their departments or offices and the governor may not prescribe rules for them.

Internal structure.

(g) Establish the internal organizational structure of the department and allocate the functions of the depart-

HeinOnline -- 1971 vol. II 1096 1971

ment to units to promote the economic and efficient administration and operation of the department. The internal structure of the department shall be established in accordance with section 82A-104(3) of this act.

Appointments.

(h) Subject to law, and the state merit system if applicable, establish and make appointments to necessary subordinate positions, and abolish unnecessary positions.

(i) Maintain a central office in Helena for the department, and such other facilities throughout the state as may be required for the effective and efficient operation of the department.

(2) Except as otherwise provided within this act, each department head may:

Employees.

(a) Subject to law, and the state merit system if applicable, transfer employees between positions, remove persons appointed to positions, and change the duties, titles, and compensation of employees within the department.

Delegation of functions.

(b) Delegate any of the functions vested in the department head to subordinate employees, except the power to remove employees of the department and fix their compensation.

Official bonds.

(c) Require that any officer or employee of the department give an official bond, if the officer or employee of the department is not required to do so by law, in an amount to be determined by the director of the department of administration.

82A-108. **Allocation or transfer for administrative purposes only.** (1) An agency allocated or transferred to a department for administrative purposes only in this act shall:

Duties of agencies.

Separate functions.

(a) Exercise its quasi-judicial, quasi-legislative, licensing, and policy-making functions independently of the department and without approval or control of the department.

Budget requests.

(b) Submit its budgetary requests through the department.

Reports.

(c) Submit reports required of it by law or by the governor through the department.

HeinOnline -- 1971 vol. II 1097 1971

Duties of departments.

(2) The department to which an agency is allocated or transferred for administrative purposes only in this act shall:

Supervision.

(a) Direct and supervise the budgeting, record keeping, reporting, and related administrative and clerical functions of the agency.

Budget.

(b) Include the agency's budgetary requests in the departmental budget.

Revenues.

(c) Collect all revenues for the agency and deposit them in the proper fund or account; except as provided in section 82A-1603(6) of this act, the department may not use or divert the revenues from the fund or account for purposes other than provided by law.

Staff.

(d) Provide staff for the agency. Unless otherwise indicated in this act, the agency may not hire its own personnel.

Notices, rules and orders.

(e) Print and disseminate for the agency any required notices, rules, or orders adopted, amended, or repealed by the agency.

Duties of department head.

(3) The department head of a department to which any agency is allocated or transferred for administrative purposes only in this act shall:

Communications.

(a) Represent the agency in communications with the governor.

Office space.

(b) Allocate office space to the agency as necessary, subject to the approval of the department of administration.

Access to agencies and records.

82A-109. **Prior right of department head to agencies and records.** Each department head designated by this act or appointed by the governor has, before assuming the office of the department head, full access to all agencies and their records within the department created by this act for the purpose of formulating plans for internal organization and the fiscal and personnel administration of the department.

Purposes.

Creation of advisory councils.

82A-110. **Creation of advisory councils.** (1) A department head or the governor may create advisory councils. An official of the executive department of state government other than a department head or the governor, including the superintendents of the state's institutions

HeinOnline -- 1971 vol. II 1098 1971

and the presidents of the units of the state's university system, or an agency, may also create advisory councils, but only if federal law or regulation requires that such official or agency create the advisory council as a condition to the receipt of federal funds.

Title. (2) Each advisory council created under this section shall be known as the "..... advisory council."

Functions. (3) The creating authority shall prescribe the composition and advisory functions of each advisory council created; appoint its members, who shall serve at the pleasure of the governor; and specify a date when the existence of each advisory council ends.

Appointments.

Term.

Purpose. (4) Advisory councils may be created only for the purpose of acting in an advisory capacity as defined in section 82A-103(8) of this act.

Per diem. (5) Each member of an advisory council may, unless he is a full-time salaried officer or employee of this state, be paid in an amount to be determined by the department head, not to exceed twenty-five dollars ($25) for each day in which he is actually and necessarily engaged in the performance of council duties, and shall also be reimbursed for actual and necessary expenses incurred while in the performance of council duties. Members who are full-time salaried officers or employees of this state may not be compensated for their service as members, but shall be reimbursed for their expenses.

Expenses.

Election of officers. (6) Unless otherwise specified by the creating authority, at its first meeting in each year each advisory council shall elect a chairman and such other officers as it considers necessary.

Meetings. (7) Unless otherwise specified by the creating authority, each advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor, and may meet at other times on the call of the chairman or a majority of its members. No advisory council may meet outside the city of Helena without the express prior authorization of the creating authority.

Quorum. (8) A majority of the membership of an advisory council constitutes a quorum to do business.

Approval of governor. (9) Except as provided in subsection (10) of this section, no advisory council may be created or appointed by

HeinOnline -- 1971 vol. II 1099 1971

Record of council filed in governor's office.

a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor must file in his office and in the office of the secretary of state a record of the council created showing the council's:

(a) Name, in accordance with subsection (2) of this section.

(b) Composition.

(c) Names and addresses of the appointed members.

(d) Purpose.

(e) Term of existence, in accordance with subsection (11) of this section.

Creation of advisory councils by certain officials.

(10) The board of education, the attorney general, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. They must file a record of each council created by them in the office of the governor and the office of the secretary of state in accordance with subsection (9) of this section.

Filing records.

Maximum existence —two years.

(11) No advisory council may be created to remain in existence longer than two (2) years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by executive order of the governor, or by the board of education, the attorney general, or the superintendent of public instruction for those advisory councils created in the manner set forth in subsection (10) of this section. If the existence of an advisory council is extended, they shall specify a new date, not more than two (2) years later, when the existence of the advisory council ends, and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

Extension.

Termination date.

"Advisory body." Defined.

(12) As used in this subsection, "advisory body" means an administratively created agency which acts in an advisory capacity. The department head of each department created by this act shall, upon the effective date of the applicable chapter of this act, file a record of each advisory body within the department not abolished by this

Filing records.

HeinOnline -- 1971 vol. II 1100 1971

act. The record shall be filed in accordance with subsection (9) of this section. Upon the filing of such record, the provisions of this section shall apply to each such advisory body.

82A-111. **Administratively created agencies—prohibition.** The governor, a department head, or any other official of the executive department of state government, or an agency, may not, by administrative action, create or attempt to create an agency of state government. This section does not apply to: Creation of agencies prohibited.

(1) Advisory councils created in accordance with section 82A-110 of this act.

(2) Units within the internal structure of a department established under section 82A-107(g) of this act.

82A-112. **Quasi-judicial boards.** (1) If an agency is created under this act and is designated as a quasi-judicial board: Quasi-judicial boards.

(a) The number of members and their qualifications are as specified in the section creating the board: in addition to those qualifications, at least one (1) member shall be an attorney licensed to practice law in the state. Qualifications. Attorney. Member.

(b) The governor shall appoint a majority of the members, who shall serve for terms concurrent with that of the governor's term, or the remainder thereof, and until their successors are appointed and qualified. The governor shall appoint the remaining members of the board for terms ending on January 1, 1975. Thereafter, members shall be appointed by the governor for four (4) year terms, and until their successors are appointed and qualified. It is the intent of this subsection that the governor appoint a majority of the members of each quasi-judicial board at the beginning of his term, with the remaining members to be appointed in the middle of his term. As used in this subsection, "majority" means the next greatest whole number more than half (as three (3) of five (5), four (4) of seven (7), nine (9) of sixteen (16), etc.). Appointment by governor. Terms of office. "Majority" defined.

(c) The governor shall designate the chairman. Chairman.

(d) Members may be removed by the governor only for cause. Removal.

(e) Each member shall, unless he is a full-time salaried officer or employee of this state, be paid twenty-five dol- Per diem.

HeinOnline -- 1971 vol. II 1101 1971

lars ($25) for each day in which he is actually and necessarily engaged in the performance of board duties, and shall also be reimbursed for actual and necessary expenses incurred while in the performance of board duties. Members who are full-time salaried officers or employees of this state may not be compensated for their service as members, but shall be reimbursed for their expenses.

Expenses.

Quorum.

(f) A majority of the membership constitutes a quorum to do business.

Provisions for continuance.

(2) The following provisions apply to an agency continued in this act and designated as a quasi-judicial board:

(a) Subsections (c) through (f) of the preceding subsection.

Present members shall complete terms of office.

(b) Persons who were members of the board before the effective date of the chapter of this act continuing the board shall serve for the remainder of their terms; thereafter, members shall be appointed by the governor and serve in accordance with subsection (b) of the preceding subsection.

Number and qualifications.

(c) The number of members and their qualifications remain as prescribed before the effective date of the chapter of this act continuing the board, unless otherwise specified in that chapter.

Authority to perform duties.

(3) Any board continued or created in this act and assigned the duty of acting in a quasi-judicial capacity in certain matters has the authority, in addition to any quasi-judicial functions retained in or transferred to it by this act, to perform any of those quasi-judicial functions which are proper and necessary to perform its duties. A quasi-judicial function includes holding hearings and issuing orders, and any other appropriate quasi-judicial function enumerated in section 82A-103(10) of this act. The board may also employ hearing examiners in the exercise of its quasi-judicial functions, but only if the board has specific authority in this act to hire personnel. If the board does not have the specific authority, hearing examiners shall be provided by the department to which the board is attached.

Hearings.

Hearing examiners.

Department succeeds abolished agency.

82A-113. **Agencies abolished with split transfers.** If an agency is abolished before all of its functions have been transferred to other departments which have not been implemented by executive order of the governor under this act, then the department created in the chapter of this act

HeinOnline -- 1971 vol. II 1102 1971

under which the agency is abolished succeeds to the remaining functions until they are transferred to the other departments subsequently implemented by the governor.

Nonassigned agencies—transfer by executive order.

82A-114. **Agencies or functions not assigned.** If an agency or a function of an agency existing before the effective date of this chapter is not allocated or transferred to a department or a constitutional office by this act it shall be allocated or transferred to the appropriate department by the governor in an executive order.

Future functions—transfer by executive order.

82A-115. **Future functions.** If an agency or a function of an agency established after the effective date of this chapter is not allocated or transferred to a department or a constitutional office by this act or any other act of the legislative assembly, the governor shall, by executive order, allocate that agency or function to the appropriate principal department or unit created by this or any future act.

Rights of state personnel preserved.

82A-116. **Rights of state personnel.** Unless otherwise provided in this act, each state officer or employee affected by the reorganization of the executive department of state government under this act is entitled to all rights which he possessed as a state officer or employee before the effective date of the applicable chapter of this act, including rights to tenure in office and of rank or grade, rights to vacation and sick pay and leave, rights under any retirement or personnel plan or labor union contract, rights to compensatory time earned, and any other rights under any law or administrative policy. This section is not intended to create any new rights for any state officer or employee, but to continue only those rights in effect before the effective date of the applicable chapter of this act.

Department succeeds to property rights.

82A-117. **Rights to property.** The department or unit thereof that succeeds to all or part of the functions of an agency under this act also succeeds to the rights to all real and personal property of that agency relating to the functions or parts of functions transferred. The property includes real property, records, office equipment, supplies, contracts, books, papers, documents, maps, appropriations, accounts within and without the state treasury, funds, vehicles, and all other similar property. However, the department or unit may not use or divert monies in a fund or account for a purpose other than provided by

HeinOnline -- 1971 vol. II 1103 1971

Governor shall resolve conflicts.

law. The governor shall resolve any conflict as to the proper disposition of the property, and his decision is final. This section does not apply to property owned by the federal government.

Department succeeds to rules, regulations and orders.

82A-118. **Rules, regulations, and orders.** The department or unit thereof that succeeds to all or part of the functions of an agency under this act also succeeds to the rules, regulations, and orders of that agency relating to the functions or parts of functions transferred. The rules, regulations, and orders of any agency in effect before the effective date of the chapter affecting the agency remain in effect until amended, repealed, superceded, or nullified by proper authority or by law.

Validity of legal proceedings.

82A-119. **Legal Proceedings.** This act does not affect the validity of any judicial or administrative proceeding pending or which could have been commenced before the effective date of the applicable chapter of this act, and

Substitution as party in interest.

the department or unit which succeeds to the functions of an agency relating to the proceeding shall be substituted as a party in interest.

Rights of holders of obligations preserved.

82A-120. **Rights and duties under existing transactions.** The rights, privileges, and duties of the holders of bonds and other obligations issued, and of the parties to contracts, leases, indentures, and other transactions entered into, before the effective date of the applicable chapter of this act, by the state or by any agency, officer, or employee thereof, and covenants and agreements as set forth therein, remain in effect, and none of those rights, privileges, duties, covenants, or agreements is impaired or diminished by reason of the transfer of the functions of an agency or the abolition of an agency in this act. The department or unit which succeeds to the

Department succeeds to agencies rights and duties.

functions of an agency is substituted for that agency and succeeds to its rights and duties under the provisions of those bonds, contracts, leases, indentures, and other transactions.

References apply to department.

82A-121. **References.** Unless inconsistent with this act, whenever an agency existing before the effective date of the chapter affecting that agency is referred to by any law, contract, or other document, that reference applies to the department or unit which succeeds to the functions of that agency.

HeinOnline -- 1971 vol. II 1104 1971

Conflicts with federal aid resolved by executive order.

82A-122. **Federal aid.** If any part of this act is ruled to be in conflict with federal requirements which are a prescribed condition to the receipt of federal aid by the state, an agency, or a political subdivision, that part of this act has no effect, and the governor may issue an executive order which substitutes for that part to the extent necessary to effectuate the receipt of federal aid. The order is effective until the legislative assembly again acts upon the matter.

CHAPTER 2. DEPARTMENT OF ADMINISTRATION

Department of administration created.

82A-201. **Department of Administration — Creation; Head.** There is created a department of administration. The department head is a director of administration appointed by the governor in accordance with section 82A-106 of this act.

Certain agencies abolished—functions transferred.

82A-202. **Agencies abolished; functions transferred to department.** (1) The department of administration and its units, created in title 82, chapter 33, R.C.M., 1947, including the state purchasing department created in title 82, chapter 19, R.C.M., 1947, are abolished, and their functions, except the functions contained in title 69, chapter 21, R.C.M., 1947 (pertaining to building construction standards), transferred to the department of law enforcement and public safety in chapter 12 of this act, are transferred to the department of administration created in this chapter. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the department of administration or its units or the state purchasing department, except the references contained in title 69, chapter 21, R.C.M., 1947, means the department of administration created in this chapter.

Certain positions abolished—functions transferred.

(2) The office of state controller, created in title 82, chapter 1, R.C.M., 1947, the position of the state purchasing agent, created in title 82, chapter 19, R.C.M., 1947, and the position of budget director, created in title 79, chapter 10, R.C.M., 1947, are abolished, and their functions, except the functions contained in title 69, chapter 21, R.C.M., 1947 (pertaining to building construction standards), transferred to the department of law enforcement and public safety in chapter 12 of this act, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state controller, state purchasing agent, or

HeinOnline -- 1971 vol. II 1105 1971

budget director, except the references contained in title 69, chapter 21, R.C.M., 1947, means the department of administration created in this chapter.

State board of review abolished—transfer.

(3) The state board of review, created in title 79, chapter 24, R.C.M., 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of review means the department of administration created in this chapter.

Highway patrolmen's retirement board abolished—transfer.

(4) The Montana highway patrolmen's retirement board, created in title 31, chapter 2, R.C.M., 1947, is abolished, and its functions, except the quasi-judicial functions transferred to the board of administration in section 82A-211 of this chapter, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana highway patrolmen's retirement board, except the references relating to the quasi-judicial functions transferred to the board of administration in section 82A-211 of this chapter, means the department of administration created in this chapter.

Functions of board of state prison commissioners transferred.

82A-203. **Additional functions transferred to department.** (1) The functions of the board of state prison commissioners, which is created in article VII, section 20 of the Montana constitution, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the board of state prison commissioners means the department of administration created in this chapter.

Functions of board of examiners transferred.

(2) The functions of the board of examiners, which is created in article VII, section 20 of the Montana constitution, except the functions contained in article VII, section 20 of the Montana constitution and the functions relating to the planning, financing, administration, and construction of state buildings in the long range building program contained in title 78, chapters 7 and 12; title 79, chapter 22; and sections 82-1131, 82-3317, and 82-3319, R.C.M., 1947, retained in the board in section 82A-207 of this chapter, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the board of examiners, except the references contained in title 78, chapters 7 and 12; title 79, chapter 22; and sections 82-1131, 82-3317,

HeinOnline -- 1971 vol. II 1106 1971

and 82-3319, R.C.M., 1947, means the department of administration created in this chapter.

82A-204. **Board of investments—Creation; Allocation; Composition; Designation.** (1) There is created a board of investments. Board of investments created.

(2) The board is allocated to the department for administrative purposes only as prescribed in section 82A-108 of this act. Personnel for the board shall be appointed by the department subject to the approval of the board. Allocation.

(3) The board is composed of five (5) members, appointed by the governor as prescribed in section 82A-112 of this act, informed and experienced in the subject of investments. Five members appointed.

(4) The board of investments has the sole authority to exercise the investment functions transferred to it under section 82A-205 of this chapter. No other agency may invest state funds. All laws governing the exercise of the investment functions remain in effect, and the board shall direct the investment of state funds in accordance with those laws and the constitution of this state. The board has the power to veto any investments made under its general supervision. Sole authority—investment functions.

(5) The board is designated as a quasi-judicial board for the purposes of section 82A-112 of this act. Quasi-judicial.

82A-205. **Investment functions transferred to board of investments.** (1) The investment functions and the functions relating thereto of the state board of land commissioners, which are contained in the citations of the Revised Codes of Montana, 1947, enumerated below, are transferred to the board of investments created in this chapter: Investment functions of land commissioners transferred.

(a) Title 11, chapter 23 (pertaining to municipal bonds and indebtedness).

(b) Title 16, chapter 20, (pertaining to county bonds).

(c) Title 31, chapter 2 (pertaining to the highway patrolmen's retirement system).

(d) Title 59, chapter 11 (pertaining to social security coverage).

HeinOnline -- 1971 vol. II 1107 1971

(e) Title 68, chapter 7 (pertaining to the management of the retirement fund), and chapter 14 (pertaining to the game wardens' retirement system).

(f) Title 75, chapter 62 (pertaining to the teachers' retirement system).

(g) Title 79, chapter 3 (pertaining to the state depository board), chapter 11 (pertaining to land board funds), and chapter 12 (pertaining to the Montana trust and legacy fund).

(h) Title 81, chapter 10 (pertaining to investments), and chapter 24 (pertaining to development of resources).

(i) Title 92, chapter 11 (pertaining to workmen's compensation).

Unless inconsistent with this act, any reference in the citations enumerated above in this subsection to the state board of land commissioners relating to the investment functions transferred to the board of investments means the board of investments created in this chapter.

Investment functions of depository board and state treasurer transferred.

(2) The investment functions of the state depository board and of the state treasurer, which are contained in title 79, chapter 3, R.C.M. 1947 (pertaining to state depository board—deposit and investment of state funds), are transferred to the board of investments. Unless inconsistent with this act, any reference in title 79, chapter 3, R.C.M. 1947, to the state depository board or the state treasurer relating to the investment functions transferred to the board of investments means the board of investments created in this chapter.

Investment functions of industrial accident board transferred.

(3) The investment functions of the industrial accident board, which are contained in title 92, chapter 13, R.C.M. 1947 (pertaining to workmen's compensation), are transferred to the board of investments. Unless inconsistent with this act, any reference in title 92, chapter 13, R.C.M. 1947, to the industrial accident board relating to the investment functions transferred to the board of investments means the board of investments created in this chapter.

Investment functions of board of administration transferred.

(4) The investment functions of the board of administration, including its investment functions as the Montana state game wardens' retirement board and as the Montana judges' retirement board, which are contained in title 68, chapters 1 through 13 (pertaining to the public

HeinOnline -- 1971 vol. II 1108 1971

employees' retirement system), title 68, chapter 14 (pertaining to the game wardens' retirement system), and title 93, chapter 11 (pertaining to the judges' retirement system), are transferred to the board of investments. Unless inconsistent with this act, any reference in title 68, chapters 1 through 14, and title 93, chapter 11, R.C.M. 1947, to the board of administration relating to the investment functions transferred to the board of investments means the board of investments created in this chapter.

Investment functions of teachers' retirement board transferred.

(5) The investment functions of the teachers' retirement board, which are contained in title 75, chapter 62 (laws of Montana, 1971, chapter 5, sections 96 through 113), R.C.M. 1947 (pertaining to the teachers' retirement system), are transferred to the board of investments. Unless inconsistent with this act, any reference in title 75, chapter 62 (laws of Montana, 1971, chapter 5, sections 96 through 113), R.C.M. 1947, to the teachers' retirement board relating to the investment functions transferred to the board of investments means the board of investments created in this chapter.

Merit system council created by law.

82A-206. **Merit system council — creation; continued; transfer; composition.** (1) The administratively created agency known as the merit system council is hereby created by law.

Continued.

(2) The council and its functions are continued.

Transfer.

(3) The council is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act. However, the council may hire its own personnel, and section 82A-108(2) (d) does not apply.

Three members appointed—terms.

(4) The council is composed of three (3) members, appointed by the governor for six (6) year overlapping terms. The governor shall appoint the members upon the recommendation of the agencies which participate in the joint merit system, and in accordance with federal requirements. The members of the council before the effective date of this chapter continue as members for the remainder of their terms; thereafter, members shall be appointed in accordance with this section.

Compensation.

(5) Members shall be compensated and reimbursed as are members of advisory councils in section 82A-110(5) of this act.

HeinOnline -- 1971 vol. II 1109 1971

Board of examiners continued.

82A-207. **Board of examiners — continued; transfer; functions.** (1) The board of examiners, created in article VII, section 20 of the Montana constitution, is continued.

Transfer.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act. However, the board may hire its own personnel, and section 82A-108(2) (d) does not apply.

Functions.

(3) The board retains only the following functions:

(a) Its functions relating to examining claims against the state, except salaries or compensation of officers fixed by law, as prescribed in article VII, section 20 of the Montana constitution.

(b) Its functions relating to planning, financing, administration, and construction of state buildings in the long range building program, contained in title 78, chapters 7 and 12; title 79, chapter 22; and sections 82-1131, 82-3317, and 82-3319, R.C.M. 1947.

Board of state prison commissioners continued.

82A-208. **Board of state prison commissioners — continued; transfer.** (1) The board of state prison commissioners, created in article VII, section 20 of the Montana constitution, is continued.

Transfer.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act.

State depository board continued.

82A-209. **State depository board — continued; transfer; functions.** (1) The state depository board, created in article XII, section 14 of the Montana constitution, is continued.

Transfer.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act.

Functions.

(3) The functions of the board, except the investment functions contained in title 79, chapter 3, R.C.M. 1947, transferred to the board of investments in section 82A-205 of this chapter, are continued in the board.

Board of administration continued.

82A-210. **Board of administration — continued; transfer; functions.** (1) The board of administration, provided for in title 68, chapter 5, R.C.M. 1947, is continued.

HeinOnline -- 1971 vol. II 1110 1971

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act. Transfer.

(3) The functions of the board, including its functions as the Montana state game wardens' retirement board and as the Montana judges' retirement board, except the investment functions transferred to the board of investments in section 82A-205 of this chapter, are continued in the board. Functions.

82A-211. **Functions transferred to board of administration.** The quasi-judicial functions of the Montana highway patrolmen's retirement board, which are contained in title 31, chapter 2, R.C.M. 1947 (pertaining to the highway patrolmen's retirement system), are transferred to the board of administration. Unless inconsistent with this act, any reference in title 31, chapter 2, R.C.M. 1947, to the Montana highway patrolmen's retirement board relating to the quasi-judicial functions transferred to the board of administration means the board of administration. Transfer of quasi-judicial functions of highway patrolmen's retirement board.

82A-212. **Teachers' retirement board — continued; transfer; functions.** (1) The teachers' retirement board, provided for in title 75, chapter 62 (sections 96 through 113, public schools recodification laws of 1971), R.C.M. 1947, is continued. Teachers' retirement board continued.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act. However, the board may hire its own personnel, and section 82A-108(2) (d) does not apply. Transfer.

(3) The functions of the board, except the investment functions transferred to the board of investments in section 82A-205 of this chapter, are continued in the board. Functions.

82A-213. **Additional agencies abolished.** The following agencies are abolished: Certain agencies abolished.

(1) The data processing advisory committee, provided for in section 82-3306, R.C.M. 1947.

(2) The advisory council on building construction, provided for in section 82-3318, R.C.M. 1947.

CHAPTER 3. DEPARTMENT OF AGRICULTURE

82A-301. **Department of agriculture — creation; head.** There is created a department of agriculture. As prescribed in article XVIII, section 1 of the Montana con- Department of agriculture created.

HeinOnline -- 1971 vol. II 1111 1971

stitution, the department head is the commissioner of agriculture. The commissioner holding office before the effective date of this chapter continues as the commissioner of the department for the remainder of his term. The commissioner shall be appointed and serve as provided in article XVIII, section 1 of the Montana constitution.

Transfer of functions.

82A-302. **Agencies abolished; functions transferred to department.** (1) The department of agriculture, created in title 3, chapter 1, R.C.M. 1947, and its units, except the administratively created dairy and egg division and the division of weights and measures, created in title 90, chapter 1, R.C.M. 1947, are abolished, and their functions, except those enumerated below, are transferred to the department of agriculture created in this chapter:

(a) The functions contained in title 3, chapters 22 through 24 (pertaining to poultry improvement, eggs and egg dealers, and dairy products), and in title 27, chapter 5, R.C.M. 1947 (pertaining to oleomargarine regulation), transferred to the department of livestock in chapter 13 of this act.

(b) The functions contained in title 90, chapter 1, R.C.M. 1947 (pertaining to weights and measures), transferred to the department of business regulation in chapter 4 of this act.

References.

Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the department or its units, except the references enumerated below, means the department of agriculture created in this chapter:

(a) The references contained in title 3, chapters 22 through 24, and in title 27, chapter 5, R.C.M. 1947.

(b) The references contained in title 90, chapter 1, R.C.M. 1947.

Unless inconsistent with this act, any reference in title 3, chapter 25, R.C.M. 1947 (pertaining to quality labels), to the department or its units means the department of agriculture created in this chapter or the department of livestock created in chapter 13 of this act, whichever is applicable.

Agricultural marketing coordinator abolished. Transfer of functions.

(2) The position of agricultural marketing coordinator, created in title 3, chapter 1, R.C.M. 1947, is abolished and the functions of the coordinator are transferred

HeinOnline -- 1971 vol. II 1112 1971

to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the agricultural marketing coordinator means the department of agriculture created in this chapter.

Farm storage commissioner abolished—transfer of functions.

(3) The office of farm storage commissioner, created in title 3, chapter 4, R.C.M. 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the farm storage commissioner means the department of agriculture created in this chapter.

82A-303. **Additional functions transferred to department.** (1) The functions of the state board of health and the state department of health, which are contained in the Montana Insecticide, Fungicide, and Rodenticide Act of 1947, title 27, chapter 2, R.C.M. 1947, are transferred to the department. Unless inconsistent with this act, any reference in title 27, chapter 2, R.C.M. 1947, to the board of health or department of health means the department of agriculture created in this chapter.

Certain functions transferred—board of health—department of health.

Functions of state apiarist transferred.

(2) The functions of the state apiarist, which are contained in section 82-806, subsections 1 through 4, and section 82-807(11), R.C.M. 1947 (pertaining to enforcing apiary laws), are transferred to the department. Unless inconsistent with this act, any reference in section 82-806, subsections 1 through 4, and section 82-807(11), R.C.M. 1947, to the state apiarist means the department of agriculture created in this chapter.

Transfer of functions—commissioner of agriculture.

(3) The functions of the commissioner of agriculture, which position is provided for in article XVIII, section 1 of the Montana constitution and in title 3, chapter 1, R.C.M. 1947, except those enumerated below, are transferred to the department:

(a) The functions of the commissioner as ex officio state sealer of weights and measures, which position is created in title 90, chapter 1, R.C.M. 1947 (pertaining to weights and measures), transferred to the department of business regulation in chapter 4 of this act.

(b) The functions which are contained in title 60, chapter 2, R.C.M. 1947 (pertaining to petroleum products regulation), transferred to the department of business regulation in chapter 4 of this act.

HeinOnline -- 1971 vol. II 1113 1971

(c) The functions which are contained in title 3, chapter 22, R.C.M. 1947 (pertaining to poultry improvement), chapter 23 (pertaining to eggs and egg dealers), and chapter 24 (pertaining to dairy products), transferred to the department of livestock in chapter 13 of this act.

References.

(d) The functions which are contained in title 27, chapter 5, R.C.M., 1947 pertaining to oleomargarine regulation), transferred to the department of livestock in chapter 13 of this act. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the commissioner of agriculture, except those enumerated below, means the department of agriculture created in this chapter:

(a) The references contained in title 90, chapter 1, R.C.M. 1947.

(b) The references contained in title 60, chapter 2, R.C.M. 1947.

(c) The references contained in title 3, chapters 22, 23, and 24, R.C.M. 1947.

(d) The references contained in title 27, chapter 5, R.C.M. 1947.

Unless inconsistent with this act, any reference in title 3, chapter 25, R.C.M. 1947 (pertaining to quality labels), to the commissioner of agriculture means the department of agriculture created in this chapter or the department of livestock created in chapter 13 of this act, whichever is applicable.

Wheat research and marketing committee continued.

82A-304. **Montana wheat research and marketing committee — continued; transfer.** (1) The Montana wheat research and marketing committee, created in title 3, chapter 29, R.C.M. 1947, and its functions are continued.

Transfer.

(2) The committee is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act.

Terms.

(3) Members of the committee before the effective date of this chapter serve for the remainder of their terms. The composition, method of appointment, terms of office, compensation, reimbursement, and qualifications of committee members remain as prescribed by law.

HeinOnline -- 1971 vol. II 1114 1971

82A-305. **Additional agencies abolished.** The following agencies are abolished: Additional agencies abolished.

(1) The agricultural marketing advisory body, created in section 3-121, R.C.M. 1947.

(2) The poultry advisory board, provided for in section 3-2201, R.C.M. 1947.

(3) The state mosquito control advisory committee, created in section 16-4209, R.C.M. 1947.

(4) The agriculture and livestock council, created in section 82-2901, R.C.M. 1947.

(5) The Montana wool laboratory advisory committee, created in section 75-717, R.C.M. 1947.

CHAPTER 4. DEPARTMENT OF BUSINESS REGULATION.

82A-401. **Department of business regulation — creation; head.** There is created a department of business regulation. The department head is the state examiner provided for in article VII, section 8 of the Montana constitution. He shall serve at the pleasure of the governor. Department of business regulation created.

82A-402. **Agencies abolished; functions transferred to department.** (1) The state banking department of the state of Montana and the position of superintendent of banks, provided for in title 5, chapter 6, R.C.M. 1947, are abolished, and their functions are transferred to the department of business regulation. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the superintendent of banks or the state banking department means the department of business regulation. State banking department abolished. Transfer of functions.

(2) The office of consumer loan commissioner, created in title 47, chapter 2, R.C.M. 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the consumer loan commissioner means the department of business regulation. Consumer loan commissioner abolished—transfer of functions.

(3) The position of state sealer of weights and measures and the division of weights and measures, created in title 90, chapter 1, R.C.M. 1947, are abolished, and their functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state sealer or to the State sealer and division of weights and measures abolished—transfer of functions.

HeinOnline -- 1971 vol. II 1115 1971

division of weights and measures means the department of business regulation.

Functions of state examiner.

82A-403. **Additional functions transferred to department.** (1) The functions of the state examiner, except the functions with respect to the political subdivisions of the state and their officers and employees transferred to the department of intergovernmental relations and enumerated in chapter 9 of this act, are transferred to the department. In accordance with article VII, section 8 of the Montana constitution, the state examiner retains the function of examining the accounts of the state treasurer, supreme court clerks, district court clerks, and county treasurers. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state examiner, except the references contained in the citations enumerated above in this subsection, means the department of business regulation.

Transfer of functions—milk control board.

(2) The functions of the Montana milk control board, which is created in title 27, chapter 4, R.C.M. 1947, except the quasi-judicial functions contained in section 27-407, R.C.M. 1947 (pertaining to fixing minimum prices for milk), retained in the board under section 82A-406 of this chapter, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana milk control board, except the references in section 27-407, R.C.M. 1947, relating to the quasi-judicial functions retained in the board under section 82A-406 of this chapter, means the department of business regulation.

Transfer of functions—commissioner of agriculture.

(3) The functions of the commissioner of agriculture, which are contained in title 60, chapter 2, R.C.M. 1947 (pertaining to petroleum products regulation), are transferred to the department. Unless inconsistent with this act, any reference in title 60, chapter 2, R.C.M. 1947, to the commissioner of agriculture means the department of business regulation.

Transfer of functions—department of agriculture.

(4) The functions of the department of agriculture, which are contained in title 90, chapter 1, R.C.M. 1947, (pertaining to weights and measures), are transferred to the department of business regulation. Unless inconsistent with this act, any reference in title 90, chapter 1, R.C.M. 1947, to the department of agriculture means the department of business regulation.

HeinOnline -- 1971 vol. II 1116 1971

82A-404. **Board of food distributors — continued; renamed board of trade; transfer; designation.** (1) The Montana state board of food distributors, provided for in title 27, chapter 3, R.C.M. 1947, and its functions are continued, and the board is renamed the board of trade. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana state board of food distributors means the board of trade.

Board of food distributors renamed board of trade.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act.

Transfer.

(3) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act.

Quasi-judicial.

82A-405. **Montana trade commission abolished; functions transferred to board of trade.** The Montana trade commission, created in title 70, chapter 2, R.C.M. 1947, is abolished, and its functions are transferred to the board of trade. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana trade commission means the board of trade.

Trade commission abolished—transfer of functions.

82A-406. **Milk control board — continued; renamed board of milk control; transfer; functions; designation.** (1) The Montana milk control board, created in title 27, chapter 4, R.C.M. 1947, is continued, and the board is renamed the board of milk control.

Milk control board renamed board of milk control.

(3) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act.

Transfer.

(3) The board retains only the quasi-judicial functions contained in section 27-407, R.C.M. 1947 (pertaining to setting milk prices). Unless inconsistent with this act, any reference in section 27-407, R.C.M. 1947, to the Montana milk control board means the board of milk control.

Functions.

(4) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act.

Quasi-judicial.

CHAPTER 5. DEPARTMENT OF EDUCATION.

82A-501. **Department — creation; head.** There is created a department of education. The department head is the state board of education, created in article XI, section 11 of the Montana constitution and provided for in title 75, R.C.M. 1947.

Department of education created.

HeinOnline -- 1971 vol. II 1117 1971

State entomologist abolished.

Transfer of functions.

82A-502. **Agencies abolished; functions transferred to cooperative extension service.** (1) The position of state entomologist of Montana, provided for in title 82, chapter 8, R.C.M. 1947, is abolished, and the functions of the position are transferred to the cooperative extension service within the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state entomologist means the cooperative extension service within the department of education.

State apiarist abolished—transfer of functions.

(2) The position of state apiarist, provided for in title 82, chapter 8, R.C.M. 1947, is abolished, and the functions of the office, except the functions contained in section 82-806, subsections 1 through 4, and section 82-807(11), R.C.M. 1947 (pertaining to enforcing the apiary laws), transferred to the department of agriculture in chapter 3 of this act, are transferred to the cooperative extension service within the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state apiarist, except the references in section 82-806, subsections 1 through 4, and section 82-807(11), R.C.M. 1947, means the cooperative extension service within the department of education.

Transfer—historical society.

82A-503. **Montana historical society transferred to department.** The Montana historical society provided for in title 44, chapter 5, R.C.M. 1947, is transferred to the department.

Position of director continued.

82A-504. **Director of Montana historical society — continued.** The position of director of the Montana historical society, which position is provided for in title 44, chapter 5, R.C.M. 1947, and his functions are continued. After the effective date of this chapter, the director shall be appointed and may be removed by the board of trustees of the Montana historical society, subject to the approval of the board of education.

Transfer of functions to director.

82A-505. **Functions of Montana historical society and of board of trustees transferred to director.** The functions of the Montana historical society and of the board of trustees of the Montana historical society, which society and board are provided for in title 44, chapter 5, R.C.M. 1947, are transferred to the director of the Montana historical society. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana historical society or the board of trustees

HeinOnline -- 1971 vol. II 1118 1971

of the Montana historical society relating to the functions transferred to the director means the director of the Montana historical society within the department of education.

82A-506. **Board functions.** (1) The functions of the state board of education, including its functions as ex officio board of regents and as the state board for vocational education, are continued in the board as the department head, except: Functions of board of education.

(a) The functions of the Montana state bureau of mines and geology, which are contained in title 50, chapter 10, R.C.M. 1947 (pertaining to strip coal mining regulation), and which are transferred to the department of natural resources and conservation in chapter 15 of this act.

(b) The functions of the division of vocational rehabilitation, created in title 41, chapter 8, R.C.M. 1947, transferred to the department of social and rehabilitation services in chapter 19 of this act.

(2) The composition, method of selection, terms of office, compensation, reimbursement, and qualifications of the members of the state board of education, the board of regents, and the state board for vocational education remain as prescribed by law.

82A-507. **Board of trustees of state historical society—continued; composition; function.** (1) The board of trustees of the state historical society, created in title 44, chapter 5, R.C.M. 1947, is continued. Board of trustees of state historical society.

(2) The board consists of fifteen (15) members, appointed by the governor to serve at his pleasure. Members of the board before the effective date of this chapter serve for the remainder of their terms; thereafter, members shall be appointed and serve in accordance with this subsection. The qualifications for board members in section 44-520, R.C.M. 1947, apply. The board may organize itself in accordance with section 44-523(1), R.C.M. 1947. Members shall be compensated and reimbursed as are members of advisory councils in section 82A-110(5) of this act. Fifteen members appointed—terms. Qualifications. Compensation.

(3) The board shall only act in an advisory capacity to the state board of education and the director of the Advisory capacity.

HeinOnline -- 1971 vol. II 1119 1971

state historical society on matters relating to the functions of the director.

Montana arts council.

82A-508. **Montana arts council — continued; transfer.** (1) The Montana Arts Council, created in title 82, chapter 36, R.C.M. 1947, and its functions are continued.

Transfer.

(2) The council is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act.

Members.

(3) Members of the council before the effective date of this chapter serve for the remainder of their terms. The composition, method of appointment, terms of office, compensation, reimbursement, and qualifications of board members remain as prescribed by law.

Director appointed.

(4) The director of the council shall be appointed and may be removed by the council, subject to the approval of the board of education.

State library commission.

82A-509. **State library commission—continued; transfer.** (1) The state library commission, created in title 44, chapter 1, R.C.M. 1947, and its functions are continued.

Transfer.

(2) The commission is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act.

Members.

(3) Members of the commission before the effective date of this chapter serve for the remainder of their terms. The composition, method of appointment, terms of office, compensation, reimbursement, and qualifications of commission members remain as prescribed by law.

State librarian appointed.

(4) The state librarian shall be appointed and may be removed by the commission, subject to the approval of the board of education.

Agencies abolished.

82A-510. **Additional agencies abolished.** The following agencies are abolished:

(1) The advisory council on teacher education and certification, administratively created.

(2) The council on education for the disadvantaged, administratively created.

HeinOnline -- 1971 vol. II 1120 1971

CHAPTER 6. DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES.

82A-601. **Department of health and environmental sciences — creation; head.** There is created a department of health and environmental sciences. The department head is the director of health and environmental sciences provided for in section 82A-608 of this chapter.

Department of health and environmental sciences created.

82A-602. **Agencies abolished; functions transferred to department.** (1) The state department of health, created in title 69, chapter 41, R.C.M. 1947, and its units are abolished, and their functions, except those enumerated below, are transferred to the department of health and environmental sciences:

Department of health abolished—transfer of functions.

(a) The functions contained in the Montana Insecticide, Fungicide, and Rodenticide Act of 1947, title 27, chapter 2, R.C.M. 1947, transferred to the department of agriculture in chapter 3 of this act.

(b) The function in section 69-4203(5), R.C.M. 1947 (pertaining to enforcing the industrial hygiene laws), transferred to the department of labor and industry in chapter 10 of this act. The department of health and environmental sciences shall notify the department of labor and industry of any alleged violation of the industrial hygiene laws or rules established thereunder. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the department of health or its units, except those enumerated below, means the department of health and environmental sciences:

(a) The references contained in title 27, chapter 2, R.C.M. 1947. References.

(b) The references contained in title 69, chapter 42, R.C.M. 1947, relating to the enforcement functions transferred to the department of labor and industry in chapter 10 of this act.

(2) The sanitarians registration council, created in title 69, chapter 34, R.C.M. 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the sanitarians registration council means the department of health and environmental sciences.

Sanitarians registration council abolished—functions transferred.

HeinOnline -- 1971 vol. II 1121 1971

Commission on alcohol and drug dependence abolished—functions transferred.

(3) The Montana commission on alcohol and drug dependence, created in title 69, chapter 62, R.C.M. 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Motnana, 1947, to the Montana commission on alcohol and drug dependence means the department of health and environmental sciences.

82A-603. **Additional functions transferred to department.** (1) The functions of the state water pollution control council, which is created in title 69, chapter 48, R.C.M. 1947, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state water pollution control council means the department of health and environmental sciences.

Functions of water pollution control council transferred.

Transfer of functions—board of health.

(2) The functions of the state board of health, which is provided for in title 69, chapter 41, R.C.M. 1947, except the functions enumerated below, are transferred to the department:

(a) The functions contained in the Montana Insecticide, Fungicide, and Rodenticide Act of 1947, title 27, chapter 2, R.C.M. 1947, transferred to the department of agriculture in chapter 3 of this act.

(b) The functions contained in title 50, chapter 11, R.C.M. 1947 (pertaining to dredge mining regulation), transferred to the department of natural resources and conservation in chapter 15 of this act.

(c) The functions contained in title 41, chapter 22, R.C.M. 1947, (pertaining to nurses' employment practices), transferred to the department of labor and industry in chapter 10 of this act. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of health, except those enumerated below, means the department of health and environmental sciences:

References.

(a) The references contained in title 27, chapter 2, R.C.M. 1947.

(b) The references contained in title 50, chapter 11, R.C.M. 1947.

(c) The references contained in title 41, chapter 22, R.C.M. 1947.

HeinOnline -- 1971 vol. II 1122 1971

82A-604. **Division of environmental sciences — creation.** There is created a division of environmental sciences within the department. The board of health and environmental sciences shall assign all functions performed by the department relating to air pollution control, water pollution control, radiation control, pesticides control, environmental sanitation, solid waste disposal, industrial hygiene, and related areas to the division.

Division of environmental sciences created.

82A-605. **State board of health — continued; renamed; designation.** (1) The state board of health provided for in title 69, chapter 41, R.C.M. 1947, is continued and renamed the board of health and environmental sciences.

Board of health renamed board of health and environmental sciences.

(2) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act.

Quasi-judicial.

82A-606. **Air pollution control advisory council — continued; membership; functions.** (1) The air pollution control advisory council, created in title 69, chapter 39, R.C.M. 1947, is continued.

Air pollution control advisory council.

(2) Council membership remains as prescribed in section 69-3908, R.C.M. 1947, except that the executive officer of the state board of health is replaced by the director of the department of health and environmental sciences.

Members.

(3) After the effective date of this chapter, appointed council members serve at the pleasure of the governor.

Terms.

(4) The council shall act in an advisory capacity to the department of health and environmental sciences on matters relating to air pollution.

Advisory capacity.

(5) Subsections (5) through (8) of section 82A-110 of this act apply to the council and members.

82A-607. **State water pollution control council—continued; renamed water pollution control advisory council.** (1) The state water pollution control council, created in title 69, chapter 48, R.C.M. 1947, is continued and renamed the water pollution control advisory council. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state water pollution control council means the water pollution control advisory council.

Water pollution control council renamed water pollution control advisory council.

(2) Council membership remains as prescribed in section 69-4810, R.C.M. 1947, except that the executive of-

Members.

HeinOnline -- 1971 vol. II 1123 1971

ficer of the state department of health, the state fish and game department director, and the director of the water resources board are replaced by the director of the department of health and environmental sciences, the director of the fish and game department, and the administrator of the water resources division of the department of natural resources and conservation, respectively.

Terms.

(3) After the effective date of this chapter, appointed council members serve at the pleasure of the governor.

Advisory capacity.

(4) The council shall only act in an advisory capacity to the department of health and environmental sciences on matters relating to water pollution.

(5) Subsections (5) through (8) of section 82A-110 of this act shall apply to the council and members.

Position of director of health and environmental sciences created.

82A-608. **Director of health and environmental sciences — creation; qualifications.** (1) There is created the position of director of health and environmental sciences. The director shall be appointed by the governor in the manner set forth in section 82A-106 of this act for directors who are department heads, and in addition shall:

Qualifications.

(a) Have a degree of doctor of medicine.

(b) Have successfully completed at least one (1) year of graduate study in an approved school of public health.

(c) Have had at least two (2) years' experience as a full-time public health officer.

(d) Be eligible for a license by the board of medical examiners.

(3) Receive a license from the board of medical examiners not later than six (6) months after his appointment.

(2) Section 82A-107 of this act applies to the director as a department head, subject to the concurrence of the board of health and environmental sciences. The director is the chief administrative officer of the department, and he shall in addition perform those functions that are delegated to him by the board of health and environmental sciences.

Functions.

Additional agencies abolished.

82A-609. **Additional agencies abolished.** The following agencies are abolished:

HeinOnline -- 1971 vol. II 1124 1971

(1) The venereal disease and immunization advisory committee, administratively created.

(2) The laboratory advisory committee, administratively created.

(3) The migrant health advisory committee, administratively created.

(4) The hearing conservation advisory committee, administratively created.

(5) The family planning advisory committee, administratively created.

(6) The joint staff committee, administratively created.

(7) The interdepartmental council on mental retardation, administratively created.

(8) The radiation advisory committee, provided for in section 69-5805, R.C.M. 1947.

(9) The hospital and long term care facilities advisory council, provided for in section 69-5214, R.C.M. 1947.

CHAPTER 7. DEPARTMENT OF HIGHWAYS.

82A-701. **Department of highways — creation; head.** There is created a department of highways. The department head is the director of highways provided for in section 82A-707 of this chapter.

Department of highways created.

82A-702. **Agencies abolished; functions transferred to department.** (1) The highway department, provided for in title 32, chapter 25, R.C.M., 1947, is abolished, and its functions are transferred to the department of highways created in this chapter. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the highway department means the department of highways created in this chapter.

Highway department abolished—functions transferred.

(2) The position of state highway administrator, created in title 32, chapter 25, R.C.M. 1947, is abolished, and the functions of the position are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state highway administrator means the department of highways created in this chapter.

State highway administrator abolished—functions transferred.

HeinOnline -- 1971 vol. II 1125 1971

Toll bridge authority abolished —functions transferred.

(3) The Montana toll bridge authority, created in title 32, chapter 27, R.C.M. 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana toll bridge authority means the department of highways created in this chapter.

Motor vehicle reciprocity board abolished—functions transferred.

(4) The Montana motor vehicle reciprocity board, created in title 53, chapter 7, R.C.M. 1947, is abolished, and its functions, except the quasi-judicial functions transferred to the board of highway appeals in section 82A-705 of this chapter, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana motor vehicle reciprocity board, except the references relating to the quasi-judicial functions transferred to the board of highway appeals in section 82A-705 of this chapter, means the department of highways created in this chapter.

Functions of highway commission transferred.

82A-703. **Functions of highway commission transferred to department.** The functions of the highway commission, which is provided for in title 32, chapter 24, R.C.M. 1947, except its functions acting as the Montana highway patrol board, contained in title 31, chapter 1, R.C.M. 1947, transferred to the department of law enforcement and public safety or the attorney general in chapter 12 of this act, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the highway commission, except the references in title 31, chapter 1, R.C.M. 1947, to the commission acting as the Montana highway patrol board, means the department of highways created in this chapter.

Board of highway appeals created.

82A-704. **Board of highway appeals — creation; allocation; composition; designation.** (1) There is created a board of highway appeals.

Allocation.

(2) The board is allocated to the department for administrative purposes only as prescribed in section 82A-108 of this act.

Three members appointed.

(3) The board is composed of three (3) members appointed by the governor as prescribed in section 82A-112 of this act.

HeinOnline -- 1971 vol. II 1126 1971

(4) The board shall act in a quasi-judicial capacity for the hearing of grievances of personnel of the department, and for the hearing of disputes that may result from the administration and enforcement of proportional registration agreements under title 53, chapter 7, R.C.M. 1947. Quasi-judicial capacity.

(5) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act. Quasi-judicial board.

82A-705. **Functions transferred to board of highway appeals.** The quasi-judicial functions of the Montana motor vehicle reciprocity board, which are contained in title 53, chapter 7, R.C.M. 1947 (pertaining to reciprocity and proportional registration of motor vehicles), are transferred to the board of highway appeals. Unless inconsistent with this act, any reference in title 53, chapter 7, R.C.M. 1947, to the Montana motor vehicle reciprocity board relating to the quasi-judicial functions transferred to the board of highway appeals means the board of highway appeals. Functions of motor vehicle reciprocity board transferred.

82A-706. **Highway commission — continued; designation.** (1) The highway commission, provided for in title 32, chapter 24, R.C.M. 1947, is continued. Highway commission.

(2) The commission is designated as a quasi-judicial board for purposes of section 82A-112 of this act. Quasi-judicial board.

82A-707. **Director of highways — creation.** There is created the position of director of highways. The director shall be appointed by the governor in the manner set forth in section 82A-106 of this act for directors who are department heads. Section 82A-107 of this act applies to the director as a department head, subject to the concurrence of the highway commission. The director is the chief administrative officer of the department, and in addition he shall perform those functions that are delegated to him by the commission. Position of director of highways created—appointment. Functions.

82A-708. **Additional agencies abolished.** The following agencies are abolished: Additional agencies abolished.

(1) The Montana fact-finding committee on highways, streets, and bridges, created in laws of Montana, 1955, chapter 99, at 196.

(2) The Montana council for highway research, created in laws of Montana, 1955, chapter 99, at 196.

HeinOnline -- 1971 vol. II 1127 1971

(3) The highway joint development council, administratively created.

CHAPTER 8. DEPARTMENT OF INSTITUTIONS.

Department of institutions created.

82A-801. **Department of institutions — creation; head.** There is created a department of institutions. The department head is a director of institutions appointed by the governor in accordance with section 82A-106 of this act.

Functions.

82A-802. **Department of institutions abolished; functions transferred to department.** The state department of institutions, created in title 80, chapter 14, R.C.M. 1947, and its units are abolished, and their functions, except those enumerated below, are transferred to the department of institutions created in this chapter:

(1) The functions with respect to the position of registrar of motor vehicles, trailers and semitrailers, which is created in title 53, chapter 1, R.C.M. 1947, transferred to the department of law enforcement and public safety in chapter 12 of this act.

(2) The functions with respect to the state bureau of criminal identification and investigation, which is provided for in title 80, chapter 20, R.C.M. 1947, transferred to the department of law enforcement and public safety in chapter 12 of this act. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state department of institutions or its units means the department of institutions created in this chapter.

References.

Transfer of functions.

82A-803. **Functions of board of institutions transferred to department.** The functions of the state board of institutions, which is provided for in title 80, chapter 14, R.C.M. 1947, except those enumerated below, are transferred to the department of institutions created in this chapter:

(1) The quasi-judicial functions continued in the board under section 82A-806 of this chapter.

(2) The functions of the board with respect to the position of registrar of motor vehicles, trailers and semitrailers, which is created in title 53, chapter 1, R.C.M. 1947, transferred to the department of law enforcement and public safety in chapter 12 of this act.

(3) The functions of the board with respect to the state bureau of criminal identification and investigation, which is created in title 80, chapter 20, R.C.M. 1947,

HeinOnline -- 1971 vol. II 1128 1971

transferred to the department of law enforcement and public safety in chapter 12 of this act. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of institutions, means the department of institutions created in this chapter.

82A-804. **Board of pardons — continued; transfer; designation; administrator.** (1) The state board of pardons, created in title 94, chapter 98, R.C.M. 1947, and its functions are continued. State board of pardons.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act. However, the board may hire its own personnel, and section 82A-108(2) (d) does not apply. Transfer.

(3) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act. Quasi-judicial board.

(4) The position of state director of probation and parole, provided for in title 94, chapter 98, R.C.M. 1947, is renamed the administrator of probation and parole. Administrator of probation and parole.

82A-805. **Board of eugenics — continued; transfer; designation.** (1) The state board of eugenics, created in title 69, chapter 64, R.C.M. 1947, and its functions are continued. State board of eugenics.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act. Transfer.

(3) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act. Quasi-judicial board.

82A-806. **Board of institutions — continued; transfer; functions; designation.** (1) The state board of institutions, created in title 80, chapter 14, R.C.M. 1947, is continued. State board of institutions.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act. Transfer.

(3) The board shall act in an advisory capacity to the department. Advisory capacity.

(4) The board shall continue to act in a quasi-judicial capacity for the hearing of disputes concerning the state's custodial institutions within the department, including Quasi-judicial capacity.

HeinOnline -- 1971 vol. II 1129 1971

the hearing of grievances of inmates and personnel of the institutions. No quasi-judicial function exercised by the board may infringe upon statutory functions of the board of pardons.

Quasi-judicial board.

(5) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act.

82A-807. **Agencies abolished.** The following agencies are abolished:

(1) The boulder river school construction committee, provided for in laws of Montana, 1963, H.B. 428.

(2) The council of superintendents, provided for in section 80-1406, R.C.M. 1947.

(3) The institutional chaplaincy advisory committee, administratively created.

(4) The advisory council to the state prison and the advisory council to the veterans' home, provided for in section 80-1406, R.C.M. 1947.

CHAPTER 9. DEPARTMENT OF INTERGOVERNMENTAL RELATIONS

Agencies abolished. Department of intergovernmental relations created.

82A-901. **Department of intergovernmental relations — creation; head.** There is created a department of intergovernmental relations. The department head is a director of intergovernmental relations appointed by the governor in accordance with section 82A-106 of this act.

Highway traffic safety board abolished—functions transferred.

82A-902. **Agencies abolished; functions transferred to department.** (1) The Montana highway traffic safety board, created in title 32, chapter 46, R.C.M. 1947, and its units are abolished, and their functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana highway traffic safety board means the department of intergovernmental relations.

Department of planning and economic development and commission abolished. Functions transferred.

(2) The department of planning and economic development and the planning and development commission, created in title 82, chapter 37, R.C.M. 1947, are abolished, and their functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the department of planning and economic development or the

HeinOnline -- 1971 vol. II 1130 1971

planning and development commission means the department of intergovernmental relations.

(3) The state office of economic opportunity, administratively created, is abolished, and its functions are transferred to the department.

82A-903. **Additional functions transferred to department.** (1) The functions of the state aeronautics commission, which is created in title 1, chapter 2, R.C.M. 1947, except the quasi-judicial and quasi-legislative functions retained in the commission under section 82A-905 of this chapter, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state aeronautics commission, except references relating to the quasi-judicial and quasi-legislative functions retained in the commission under section 82A-905 of this chapter, means the department of intergovernmental relations.

Functions of aeronautics commission transferred.

(2) The office of state coordinator of Indian affairs, created in title 82, chapter 27, R.C.M. 1947, and the functions of the office, are transferred to the department.

Office and functions of coordinator of Indian affairs transferred.

(3) The functions of the state examiner with respect to the political subdivisions of the state and their officers and employees, contained in the citations of the Revised Codes of Montana, 1947, enumerated below, are transferred to the department:

Functions of state examiner transferred.

(a) Title 82, chapter 10 (pertaining to the general duties of the state examiner).

(b) Sections 5-907 and 5-910 (pertaining to examination of political subdivisions).

(c) Section 6-205 (pertaining to bonding of county officers and employees).

(d) Section 6-603 (pertaining to bonding of city or town officers or employees).

(e) Section 11-806 (pertaining to financial statements of cities or towns).

(f) Sections 11-1403, 11-1404, 11-1406, and 11-1411 (pertaining to the budget systems of cities or towns).

(g) Sections 11-1914 and 11-1923 (pertaining to investments by and examination of fire department relief associations).

HeinOnline -- 1971 vol. II 1131 1971

(h) Section 11-3129 (pertaining to examination of cities operating under the commission form of government).

(i) Section 11-3253 (pertaining to auditing of cities operating under the commission-manager form of government).

(j) Sections 16-1901, 16-1902, 16-1903, 16-1904, and 16-1909 (pertaining to budget systems of counties).

(k) Sections 16-2001 and 16-2049 (pertaining to county finance).

(l) Sections 16-2618, 16-2621, and 16-2625 (pertaining to deposit of public funds).

(m) Sections 16-2924 and 16-2925 (pertaining to examining financial conditions of counties).

(n) Section 16-3916 (pertaining to auditing of counties operating under the county-manager form of government).

(o) Section 32-21-174 (pertaining to inspecting accounts of the interstate vehicle equipment safety commission).

(p) Sections 59-514 and 59-515 (pertaining to approval of destruction of city or town records).

(q) Section 75-1632 (pertaining to recommending bookkeeping by school trustees).

(r) Section 75-3737 (pertaining to establishing an on-farm training account).

(s) Sections 89-1215 and 89-2107 (pertaining to examination of irrigation districts).

(t) Section 89-3422 (pertaining to examination of conservancy districts).

Functions retained by state examiner.

However, in accordance with article VII, section 8 of the Montana constitution, the state examiner retains the function of examining the accounts of the state treasurer, supreme court clerks, district court clerks, and county treasurers. Unless inconsistent with this act, any reference in the citations enumerated above in this subsection to the state examiner relating to the functions transferred to the department means the department of intergovernmental relations.

HeinOnline -- 1971 vol. II 1132 1971

82A-904. **County Printing Commission — Continued; Transfer; Renamed Board of County Printing; Composition.** (1) The county printing commission, provided for in title 16, chapter 12, R.C.M., 1947, and its functions are continued, and the commission is renamed the board of county printing. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the county printing commission means the board of county printing.

County printing commission renamed board of county printing.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act.

Transfer.

(3) Members of the board before the effective date of this chapter serve for the remainder of their terms. The composition, method of appointment, terms of office, and qualifications of board members remain as prescribed in scetion 16-1227, R.C.M., 1947. Members shall be compensated and reimbursed as are members of advisory councils in section 82A-110 of this act.

Members.

82A-905. **State Aeronautics Commission—Continued; Renamed Board of Aeronautics; Transfer; Functions; Designation.** (1) The state aeronautics commission, created in title 1, chapter 2, R.C.M., 1947, is continued, and the commission is renamed the board of aeronautics.

State aeronautics commission renamed board of aeronautics.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act.

Transfer.

(3) The board shall act in an advisory capacity to the department of those matters relating to the functions of the aeronautics commission transferred to the department in section 82A-903 of this chapter.

Advisory capacity.

(4) The board retains the quasi-judicial and quasi-legislative functions contained in sections 1-322 through 1-324, R.C.M., 1947 (pertaining to granting and suspending certificates of public convenience and necessity for air carriers, setting rates, and related matters). Unless inconsistent with this act, any reference in title 1, chapter 2, R.C.M., 1947, to the state aernautics commission relating to the quasi-judicial and quasi-legislative functions retained in the board means the board of aeronautics.

Functions.

(5) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act.

Quasi-judicial board.

HeinOnline -- 1971 vol. II 1133 1971

Highway traffic safety task force abolished.

82A-906. **Governor's Highway Traffic Safety Task Force Abolished.** The governor's highway traffic safety task force, administratively created, is abolished.

CHAPTER 10. DEPARTMENT OF LABOR AND INDUSTRY.

Department of labor and industry created.

82A-1001. **Department of Labor and Industry—Creation; Head.** There is created a department of labor and industry. As prescribed in article XVIII, section 1 of the Montana constitution, the department head is the commissioner of labor and industry. The commissioner holding office before the effective date of this chapter continues as the commissioner of the department of labor and industry created by this chapter for the remainder of his term. The commissioner shall be appointed and serve as provided in article XVIII, section 1 of the Montana constitution.

Transfer of functions.

82A-1002. **Agencies Abolished; Functions Transferred to Department.** (1) The department of labor and industry, created in title 41, chapter 16, R.C.M., 1947, and its units are abolished, and their functions are transferred to the department of labor and industry created in this chapter. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the department of labor and industry or its units means the department of labor and industry created in this chapter.

Apprenticeship council abolished—functions transferred.

(2) The apprenticeship council, provided for in title 41, chapter 12, R.C.M., 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the apprenticeship council means the department of labor and industry created in this chapter.

Commission on status of women abolished—functions transferred.

(3) The commission on the status of women, administratively created, is abolished, and its functions are transferred to the department.

Transfer of additional functions.

82A-1003. **Additional functions transferred to the department.** (1) The functions of the state board of health, which are contained in title 41, chapter 22, R.C.M., 1947 (pertaining to nurses' employment practices), are transferred to the department. Unless inconsistent with this act, any reference in title 41, chapter 22, R.C.M., 1947, to the state board of health means the department of labor and industry created in this chapter.

HeinOnline -- 1971 vol. II 1134 1971

(2) The functions of the state department of health relating to enforcing the industrial hygiene laws under section 69-4203(5), R.C.M., 1947, are transferred to the department of labor and industry created in this chapter. The department of labor and industry, on its own motion, or whenever it receives a notice of an alleged violation of the industrial hygiene laws or rules established thereunder from the department of health and environmental sciences, shall file a complaint of the alleged violation in the appropriate court and diligently pursue the action to its completion. Unless inconsistent with this act, any reference in title 69, chapter 42, R.C.M., 1947, to the state department of health relating to its enforcement functions means the department of labor and industry created in this chapter.

82A-1004. **Division of Workmen's Compensation — Creation; Head.** (1) There is created a division of workmen's compensation within the department. The division head is an administrator appointed by the governor as are directors in accordance with section 82A-106 of this act.

Division of workmen's compensation created.

(2) The division is allocated to the department for administrative purposes only as prescribed in section 82A-108 of this act. However, the division may hire its own personnel, and section 82A-108(2)(d) does not apply.

Allocation.

82A-1005. **Agencies Abolished; Functions Transferred to Division of Workmen's Compensation.** (1) The industrial accident board, created in title 92, chapter 1, R.C.M., 1947, and its units, including the department of safety, created in title 41, chapter 17, R.C.M., 1947, are abolished, and their functions, except the board's investment functions contained in title 92, chapter 13, R.C.M., 1947, transferred to the board of investments in chapter 2 of this act are transferred to the division. The administrator of the division shall make the final determinations for workmen's compensation claims. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the industrial accident board or its units, except the references relating to the board's investment functions in title 92, chapter 13, R.C.M., 1947, transferred to the board of investments in chapter 2 of this act, means the division of workmen's compensation of the department of labor and industry created in this chapter.

Industrial accident board abolished— functions transferred.

HeinOnline -- 1971 vol. II 1135 1971

Advisory committee on boiler rules abolished—functions transferred.

(2) The advisory committee on boiler rules, created in title 69, chapter 15, R.C.M., 1947, is abolished, and its functions are transferred to the division. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the advisory committee on boiler rules means the division of workmen's compensation of the department of labor and industry created in this chapter.

Boards of examiners abolished.

Functions transferred.

(3) The board of examiners of applicants for coal mine foremen and mine examiner, and the board of examiners of applicants for state coal mine inspector, provided for in title 50, chapter 4, R.C.M., 1947, are abolished, and their functions are transferred to the division. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the board of examiners of applicants for coal mine foremen and mine examiner and the board of examiners of applicants for state coal mine inspector, means the divison of workmen's compensation of the department of labor and industry created in this chapter.

Power line construction code committee abolished—functions transferred.

(4) The power line construction code committee, administratively created, is abolished, and its functions are transferred to the division.

Division of employment security created.

82A-1006. **Division of Employment Security — Creation; Head; Bureaus.** (1) There is created a division of employment security within the department. The division head is an administrator appointed by the commissioner of labor and industry.

Bureaus.

(2) Within the division of employment security are the following bureaus:

Employment service.

(a) The bureau of Montana state employment service.

Unemployment insurance.

(b) The bureau of Montana unemployment insurance.

Other bureaus.

Each bureau shall be headed by a full-time chief appointed by the administrator. The administrator shall establish such other bureaus within the division as are required for the receipt of federal funds. Personnel of the division shall be employed in accordance with merit system standards.

Employment security commission abolished—functions transferred.

82A-1007. **Employment Security Commission Abolished —Functions transferred to Division of Employment Security.** The employment security commission of Montana, created in title 87, chapter 1, R.C.M., 1947, and its

HeinOnline -- 1971 vol. II 1136 1971

units are abolished, and their functions, except the quasi-judicial functions transferred to the board of labor appeals in section 82A-1009 of this chapter, are transferred to the division of employment security.

82A-1008. **Board of Labor Appeals—Creation; Allocation; Composition; Function; Designation.** (1) There is created a board of labor appeals. Board of labor appeals created.

(2) The board is allocated to the department for administrative purposes only as prescribed in section 82A-108 of this act. Allocation.

(3) The board is composed of three (3) members of the public, who are not employees of the state government, appointed by the governor as prescribed in section 82A-112 of this act. Three members appointed.

(4) The board shall act in a quasi-judicial capacity for the hearing of disputes concerning the administration of Montana's unemployment insurance laws. Quasi-judicial capacity.

(5) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act. Quasi-judicial board.

82A-1009. **Functions transferred to Board of Labor Appeals.** The quasi-judicial functions of the employment security commission of Montana, contained in title 87, chapter 1, R.C.M., 1947 (pertaining to the unemployment compensation laws), are transferred to the board. Unless inconsistent with this act, any reference in title 87, chapter 1, R.C.M., 1947, to the employment security commission of Montana relating to the quasi-judicial functions transferred to the board of labor appeals means the board of labor appeals. Quasi-judicial functions of employment security commission transferred.

82A-1010. **Additional agencies abolished.**. The following agencies are abolished: Additional agencies abolished.

(1) The labor safety study commission, provided for in title 41, chapter 21, R.C.M., 1947.

(2) The state board of arbitration and conciliation, created in title 41, chapter 9, R.C.M., 1947.

CHAPTER 11. DEPARTMENT OF STATE LANDS.

82A-1101. **Department of State Lands — Creation; Head.** There is created a department of state lands. The department head is the state board of land commissioners, Department of state lands created.

HeinOnline -- 1971 vol. II 1137 1971

created in article XI, section 4 of the Montana constitution.

Department of state lands and investments abolished—functions transferred.

82A-1102. **Agencies abolished; Functions transferred to department.** (1) The department of state lands and investments, provided for in title 81, chapter 1, R.C.M., 1947, is abolished, and its functions are transferred to the department of state lands created in this chapter. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the department of state lands and investments means the department of state lands created in this chapter.

Commissioner of state lands and investments abolished—functions transferred.

(2) The office of commissioner of state lands and investments, created in title 81, chapter 2, R.C.M., 1947, is abolished, and its functions are transferred to the department of state lands. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the commissioner of state lands and investments means the department of state lands created in this chapter.

Functions of board of land commissioners transferred.

82A-1103. **Functions of Board of Land Commissioners continued.** The functions of the state board of land commissioners, which is created in article XI, section 4 of the Montana constitution, except the investment functions transferred to the board of investments and enumerated in chapter 2 of this act, are continued in the board.

Commissioner of state lands created —functions.

82A-1104. **Commissioner of State Lands — Creation;** (1) There is created the position of commissioner of state lands.

(2) The commissioner is the chief administrative officer of the department under the direction of the state board of land commissioners, and he shall perform those functions that are delegated to him by the board.

Appointment.

(3) The commissioner shall be appointed and serve as provided for directors in section 82A-106 of this act.

CHAPTER 12. DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY

Department of law enforcement and public safety created.

82A-1201. **Department of Law Enforcement and Public Safety—Creation; Head.** There is created a department of law enforcement and public safety. The department head is the attorney general.

Bureau of criminal identification abolished—functions transferred.

82A-1202. **Agencies abolished; Functions transferred to department.** (1) The state bureau of criminal identification and investigation, provided for in title 80, chap-

HeinOnline -- 1971 vol. II 1138 1971

ter 20, R.C.M., 1947, is abolished, and its statutory functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state bureau of criminal identification and investigation means the department of law enforcement and public safety.

Criminal investigator abolished—functions transferred.

(2) The position of criminal investigator created within the office of the attorney general in title 82, chapter 4, R.C.M., 1947, is abolished, and the functions of the position are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the position of criminal investigator means the department of law enforcement and public safety.

Law enforcement teletype writer communications committee abolished —functions transferred.

(3) The state law enforcement teletypewriter communications committee, provided for in title 82, chapter 39, R.C.M., 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the law enforcement teletypewriter communications committee means the department of law enforcement and public safety.

Montana law enforcement academy advisory board abolished—functions transferred.

(4) The Montana law enforcement academy advisory board, provided for in title 75, chapter 52, R.C.M., 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana law enforcement academy advisory board means the department of law enforcement and public safety.

State fire marshall abolished—functions transferred.

(5) The office of state fire marshal, created in title 82, chapter 12, R.C.M., 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the office of state fire marshal means the department of law enforcement and public safety.

Building code council abolished—functions transferred.

(6) The state building code council, created in title 69, chapter 21, R.C.M., 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state building code council means the department of law enforcement and public safety.

HeinOnline -- 1971 vol. II 1139 1971

Other functions transferred.

82A-1203. **Additional functions transferred to department.** (1) The functions of the state electrical board of making inspections of electrical installations and issuing tags and charging fees therefor in section 66-2805(c)(i), R.C.M., 1947, and of establishing an electrical code in section 66-2802(i), R.C.M., 1947, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state electrical board relating to its functions of making inspections of electrical installations and issuing tags and charging fees therefor or of establishing an electrical code means the department of law enforcement and public safety.

(2) The functions of the state controller and the department of administration, which are contained in title 69, chapter 21, R.C.M., 1947 (pertaining to the state building code), are transferred to the department. Unless inconsistent with this act, any reference in title 69, chapter 21, R.C.M., 1947, to the state controller or the department of administration means the department of law enforcement and public safety.

(3) The function of the secretary of state of registering machine guns in section 94-3108, R.C.M., 1947, is transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the secretary of state relating to his function of registering machine guns means the department of law enforcement and public safety.

Division of motor vehicles created.

82A-1204. **Division of Motor Vehicles — Creation.** There is created a division of motor vehicles within the department.

Registrar of motor vehicles abolished—functions transferred.

82A-1205. **Agencies abolished; Functions transferred to division.** (1) The position of registrar of motor vehicles, trailers and semitrailers, created in title 53, chapter 1, R.C.M., 1947, is abolished, and the functions of the position , except the function of providing license plates for motor vehicles provided for in title 53, chapter 1, R.C.M., 1947, are transferred to the division of motor vehicles. The function of providing license plates remains a function of the warden of the state prison. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the registrar of motor vehicles, trailers and semitrailers, except the references relating to the function of providing license plates, means

HeinOnline -- 1971 vol. II 1140 1971

the division of motor vehicles of the department of law enforcement and public safety.

Highway patrol board abolished—functions transferred.

(2) The Montana highway patrol board, provided for in title 31, chapter 1, R.C.M., 1947, is abolished, and its functions, except the function of appointing the highway patrol chief in section 31-104, R.C.M., 1947, which is hereby transferred to the attorney general, are transferred to the division of motor vehicles. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana highway patrol board means the division of motor vehicles of the department of law enforcement and public safety, except references in section 31-104, R.C.M., 1947, relating to the function of appointing the highway patrol chief, where it means the attorney general.

Functions of highway patrol and chief transferred.

82A-1206. **Functions of highway patrol and highway patrol chief transferred to division.** The functions of the highway patrol, which is created in title 31, chapter 1, R.C.M., 1947, and of the position of highway patrol chief, which is provided for in title 31, chapter 1, R.C.M., 1947, are transferred to the division of motor vehicles.

Crime control commission created by law.

82A-1207. **Board of Crime Control—Creation; Continued; Transfer; Composition.** (1) The administratively created agency known as the governor's crime control commission is hereby created by law as the board of crime control, and its functions are continued.

Transfer.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act. However, the board may hire its own personnel, and section 82A-108(2)(d) does not apply.

Sixteen members appointed—qualifications.

(3) The board is composed of sixteen (16) members appointed by the governor. The board shall be representative of state and local law enforcement agencies and units of general local government.

Functions.

(4) As designated by the governor as the state planning agency under the Omnibus Crime Control and Safe Streets Act of 1968, the board shall perform the functions assigned to it under that act.

Terms.

(5) The members of the governor's crime control commission before the effective date of this chapter continue as members of the board of crime control for the remainder of the governor's term; thereafter members shall be

HeinOnline -- 1971 vol. II 1141 1971

appointed in accordance with section 82A-112(1)(b) of this act.

Quasi-judicial board.

(6) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act, but section 82A-112 (2)(b) does not apply.

Fire prevention advisory commission abolished.

82A-1208. **Fire Prevention Advisory Commission abolished.** The fire prevention advisory commission, provided for in section 82-1201, R.C.M., 1947, is abolished.

CHAPTER 13. DEPARTMENT OF LIVESTOCK

Department of livestock created.

82A-1301. **Department of Livestock—Creation; Head.** There is created a department of livestock. The department head is the board of livestock provided for in section 82A-1303 of this chapter.

Functions transferred.

82A-1302. **Functions transferred to department.** The functions of the department of agriculture and of the commissioner of agriculture, which are contained in the citations of the Revised Codes of Montana, 1947, enumerated below, are transferred to the department:

(1) Title 3, chapter 22 (pertaining to poultry improvement), chapter 23 (pertaining to eggs and egg dealers), chapter 24 (pertaining to dairy products), and chapter 25 (pertaining to quality labels).

(2) Title 27, chapter 5 (pertaining to oleomargarine regulation).

References.

Unless inconsistent with this act, any reference in title 3, chapters 22 through 24, and in title 27, chapter 5, R.C.M., 1947, to the department of agriculture or the commissioner of agriculture means the department of livestock. Unless inconsistent with this act, any reference in title 3, chapter 25, R.C.M., 1947, to the department of agriculture or the commissioner of agriculture means the department of livestock or the department of agriculture created in chapter 3 of this act, whichever is applicable.

Livestock commission renamed board of livestock.

82A-1303. **Livestock Commission — Continued; Renamed Board of Livestock; Composition.** (1) The livestock commission, provided for in title 46, chapter 1, R.C.M., 1947, and its functions are continued, and the commission is renamed the board of livestock. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the livestock commission means the board of livestock.

HeinOnline -- 1971 vol. II 1142 1971

Members.

(2) Members of the board before the effective date of this chapter continue as members for the remainder of their terms. The composition, method of selection, and terms of office of members of the board remain as prescribed in section 46-101, R.C.M., 1947, except:

Confirmation by senate.

(a) An appointee is vested with all the powers and duties of his office before being confirmed by the senate, as are directors in section 82A-106(2) of this act.

Chairman.

(b) The governor shall designate the chairman of the board.

Compensation.

(3) Members of the board shall be reimbursed and compensated as are members of quasi-judicial boards in section 82A-112(1)(e) of this act.

Livestock sanitary board abolished—functions transferred.

82A-1304. **Livestock Sanitary Board abolished; Functions transferred to Board of Livestock.** The livestock sanitary board, provided for in title 46, chapter 2, R.C.M., 1947, is abolished, and its functions are transferred to the board of livestock. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the livestock sanitary board means the board of livestock.

Advisory committee on predatory animal control abolished.

82A-1305. **Advisory Committee on Predatory Animal Control abolished.** The advisory committee on predatory animal control, provided for in section 46-1903, R.C.M., 1947, is abolished.

CHAPTER 14. DEPARTMENT OF MILITARY AFFAIRS.

Department of military affairs created.

82A-1401. **Department of Military Affairs—Creation; Head.** There is created a department of military affairs. The department head is the adjutant general of the state, who shall be appointed and serve in the same manner as are directors in section 82A-106 of this act. In addition, the qualifications of the adjutant general remain as prescribed in section 77-117, R.C.M., 1947.

Adjutant general's department abolished—functions transferred.

82A-1402. **Agencies abolished; Functions transferred to department.** (1) The adjutant general's department, provided for in title 77, chapter 1, R.C.M., 1947, is abolished, and its functions are transferred to the department of military affairs. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the adjutant general's department means the department of military affairs.

HeinOnline -- 1971 vol. II 1143 1971

Civil defense agency abolished—functions transferred.

(2) The state civil defense agency, created in title 77, chapter 13, R.C.M., 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state civil defense agency means the department of military affairs.

Director of civil defense abolished—functions transferred.

(3) The position of director of civil defense, created in title 77, chapter 13, R.C.M., 1947, is abolished, and the functions of the position are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the position of director of civil defense means the department of military affairs.

Emergency resource management abolished—functions transferred.

(4) The office of emergency resource management, created in title 77, chapter 15, R.C.M., 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the office of emergency resource management means the department of military affairs.

Emergency planning director abolished—functions transferred.

(5) The office of state emergency planning director, provided for in title 77, chapter 15 ,R.C.M., 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the office of state emergency planning director means the department of military affairs.

Functions of adjutant general transferred.

82A-1403. **Functions of adjutant general transferred to department.** The functions of the position of adjutant general, which is created in title 77, chapter 1, R.C.M., 1947, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the position of adjutant general means the department of military affairs.

Additional agencies abolished.

82A-1404. **Additional agencies abolished.** The following agencies are abolished:

(1) The civil defense advisory council, created in section 77-1305, R.C.M., 1947.

(2) The state emergency resource planning committee, provided for in section 77-1504, R.C.M., 1947.

(3) The training and education coordination committee, administratively created.

HeinOnline -- 1971 vol. II 1144 1971

CHAPTER 15. DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION.

Department of natural resources and conservation created.

82A-1501. **Department of Natural Resources and Conservation—Creation; Head.** There is created a department of natural resources and conservation. The department head is the director of natural resources and conservation provided for in section 82A-1508 of this chapter.

Grass conservation commission abolished—functions transferred.

82A-1502. **Agencies abolished; Functions transferred to department.** The Montana grass conservation commission, created in title 46, chapter 23, R.C.M., 1947, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana grass conservation commission means the department of natural resources and conservation.

Additional functions transferred.

82A-1503. **Additional functions transferred to department.** (1) The functions of the state board of health, which are contained in title 50, chapter 11, R.C.M., 1947 (pertaining to dredge mining regulation), are transferred to the department. Unless inconsistent with this act, any reference in title 50, chapter 11, R.C.M., 1947, to the state board of health means the department of natural resources and conservation.

(2) The functions of the Montana bureau of mines and geology, which are contained in title 50, chapter 10, R.C.M., 1947 (pertaining to strip coal mining regulation), are transferred to the department. Unless inconsistent with this act, any reference in title 50, chapter 10, R.C.M., 1947, to the Montana bureau of mines and geology means the department of natural resources and conservation.

Divisions created.

82A-1504. **Divisions of Water Resources, Forestry and Conservation Districts — Creation.** (1) The following divisions of the department are created:

Water resources.

(a) Division of water resources.

Forestry.

(b) Division of forestry.

Conservation districts.

(c) Division of conservation districts.

Administrators.

(2) Each division shall be headed by an administrator. The administrator of the division of forestry shall be technically trained and experienced in forestry and a graduate of an accredited forestry school.

HeinOnline -- 1971 vol. II 1145 1971

Water resources board abolished—functions transferred.

82A-1505. **Agencies abolished; Functions transferred to divisions.** (1) The Montana water resources board and its units, created in title 89, chapter 1, R.C.M., 1947, are abolished, and their functions are transferred to the division of water resources. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana water resources board or its units means the division of water resources of the department of natural resources and conservation.

Board of forestry abolished—functions transferred.

(2) The Montana state board of forestry and its units, created in title 28, chapter 1, R.C.M., 1947, are abolished, and their functions are transferred to the division of forestry. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana state board of forestry means the division of forestry of the department of natural resources and conservation.

State forester abolished—functions transferred.

(3) The position of state forester, provided for in title 81, chapter 14, R.C.M., 1947, is abolished, and the functions of the position are transferred to the division of forestry. However, as prescribed in article XI, section 4 of the Montana constitution and in section 81-103, R.C.M., 1947, the state board of land commissioners continues to retain the direction, control, leasing and sale of the state school lands and the land granted for the support and benefit of the various educational institutions and state lands; any functions performed by the division of forestry relating to these lands are subject to the direction and control of the state board of land commissioners. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the position of state forester means the division of forestry within the department of natural resources and conservation.

Functions retained by board of land commissioners.

Functions of soil conservation committee transferred.

82A-1506. **Additional functions transferred to division.** The functions of the state soil conservation committee, created in title 76, chapter 1, R.C.M., 1947, are transferred to the division of conservation districts. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state soil conservation committee means the division of conservation districts of the department of natural resources and conservation.

State soil conservation committee.

82A-1507. **State Soil Conservation Committee—Continued; Membership; Functions.** (1) The state soil conservation committee, created in title 76, chapter 1, R.C.M., 1947, is continued.

HeinOnline -- 1971 vol. II 1146 1971

(2) Committee membership remains as prescribed in section 76-104, R.C.M., 1947. Members.

(3) After the effective date of this chapter, appointed committee members serve at the pleasure of the governor. Terms.

(4) The committee shall act in an advisory capacity to the department on matters relating to soil conservation districts. Advisory capacity.

(5) Subsection (5) through (8) of section 82A-110 of this act applies to the committee and members.

82A-1508. **Oil and Gas Conservation Commission—Continued; Renamed Board of Oil and Gas; Transfer; Designation.** (1) The oil and gas conservation commission of the state of Montana, created in title 60, chapter 1, R.C.M., 1947, and its functions are continued, and the commission is renamed the board of oil and gas conservation. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the oil and gas conservation commission of the state of Montana means the board of oil and gas conservation. Oil and gas conservation commission renamed board of oil and gas conservation.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act. However, the board may hire its own personnel, and section 82A-108(2)(d) of this act does not apply. Transfer.

(3) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act. Quasi-judicial board.

82A-1509. **Board of Natural Resources and Conservation—Creation; Composition; Designation.** (1) There is created a board of natural resources and conservation. Board of natural resources and conservation created.

(2) The board is composed of five (5) members, appointed by the governor as prescribed in section 82A-112 of this act, informed and experienced in the subjects of natural resources and conservation. One member shall be appointed from each of the five (5) districts prescribed in section 26-102(1), R.C.M., 1947. Five members appointed.

(3) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act. Quasi-judicial board.

82A-1510. **Director of Natural Resources and Conservation—Creation.** There is created the position of director of natural resources and conservation. The director Position of director created—appointment.

HeinOnline -- 1971 vol. II 1147 1971

shall be appointed by the governor in the manner set forth in section 82A-106 of this act for directors who are department heads. Section 82A-107 of this act applies to the director as a department head, subject to the concurrence of the board of natural resources and conservation. The director is the chief administrative officer of the department, and in addition he shall perform those functions that are delegated to him by the board of natural resources and conservation.

Functions.

Additional agencies abolished.

82A-1511. **Additional agencies abolished.** The following agencies are abolished:

(1) The council on natural resources and development, created in section 82-3001, R.C.M., 1947.

(2) The outdoor recreation advisory and planning committee, created in section 62-404, R.C.M., 1947.

(3) The weather modification advisory committee, provided for in section 89-312, R.C.M., 1947.

CHAPTER 16. DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING.

Department of professional and occupational licensing created.

82A-1601. **Department of Professional and Occupational Licensing—Creation; Head.** There is created a department of professional and occupational licensing. The department head is a director of professional and occupational licensing appointed by the governor in accordance with section 82A-106 of this act.

Agencies. transferred.

82A-1602. **Department—Agencies transferred to.** The following agencies are continued, are transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act, and are renamed as indicated:

Abstracters board of examiners renamed board of abstracters.

(1) Abstractors board of examiners, created in title 66, chapter 21, R.C.M., 1947, renamed the board of abstractors. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the abstractors board of examiners means the board of abstractors.

State board of public accountancy renamed board of public accountants.

(2) State board of public accountancy, created in title 66, chapter 18, R.C.M., 1947, renamed the board of public accountants. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of public accountancy means the board of public accountants.

HeinOnline -- 1971 vol. II 1148 1971

Board of architectural examiners renamed board of architects.

(3) Board of architectural examiners, provided for in title 66, chapter 1, R.C.M., 1947, renamed the board of architects. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the board of architectural examiners means the board of architects.

State athletic commission renamed board of athletics.

(4) State athletic commission, created in title 82, chapter 3, R.C.M., 1947, renamed the board of athletics. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state athletic commission means the board of athletics.

Board of barber examiners renamed board of barbers.

(5) Board of barber examiners, created in title 66, chapter 4, R.C.M., 1947, renamed the board of barbers. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the board of barber examiners means the board of barbers.

Board of chiropody medical examiners renamed board of chiropodists.

(6) State board of chiropody medical examiners, created in title 66, chapter 6, R.C.M., 1947, renamed the board of chiropodists. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of chiropody medical examiners means the board of chiropodists.

Board of chiropractic examiners renamed board of chiropractors.

(7) State board of chiropractic examiners, created in title 66, chapter 5, R.C.M., 1947, renamed the board of chiropractors. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of chiropractic examiners means the board of chiropractors.

Examining board of cosmetology renamed board of cosmetologists.

(8) Montana state examining board of cosmetology, created in title 66, chapter 8, R.C.M., 1947, renamed the board of cosmetologists. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana state examining board of cosmetology means the board of cosmetologists.

Board of dental examiners renamed board of dentists.

(9) State board of dental examiners of the state of Montana, created in title 66, chapter 9, R.C.M., 1947, renamed the board of dentists. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of dental examiners of the state of Montana means the board of dentists.

Electrical board renamed board of electricians.

(10) State electrical board, created in title 66, chapter 28, R.C.M., 1947, renamed the board of electricians. Unless inconsistent with this act, any reference in the

HeinOnline -- 1971 vol. II 1149 1971

Revised Codes of Montana, 1947, to the state electrical board, except the references relating to the functions of making inspections of electrical installations and issuing tags and charging fees therefor or of establishing an electrical code, transferred to the department of law enforcement and public safety in chapter 12 of this act, means the board of electricians.

Board of registration—engineers and surveyors—renamed board of professional engineers and land surveyors.

(11) State board of registration for professional engineers and land surveyors, created in title 66, chapter 23, R.C.M., 1947, renamed the board of professional engineers and land surveyors. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of registration for professional engineers and land surveyors means the board of professional engineers and land surveyors.

Board of hearing aid dispensers.

(12) Montana board of hearing aid dispensers, created in title 66, chapter 30, R.C.M., 1947, renamed the board of hearing aid dispensers. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana board of hearing aid dispensers means the board of hearing aid dispensers.

Horse racing commission renamed board of horse racing.

(13) Montana horse racing commission, created in title 62, chapter 5, R.C.M., 1947, renamed the board of horse racing. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana horse racing commission means of the board of horse racing.

Board of massage examiners renamed board of masseurs.

(14) State board of massage examiners, created in title 66, chapter 29, R.C.M., 1947, renamed the board of masseurs. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of massage examiners means the board of masseurs.

Board of medical examiners renamed board of medical doctors.

(15) Montana state board of medical examiners, created in title 66, chapter 10, R.C.M., 1947, renamed the board of medical doctors. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana state board of medical examiners means the board of medical doctors.

Board of morticians.

(16) State board of morticians, created in title 66, chapter 27, R.C.M., 1947, renamed the board of morticians. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the board of morticians means the board of morticians.

HeinOnline -- 1971 vol. II 1150 1971

Board of examiners for nursing home administrators renamed board of nursing home administrators.

(17) State board of examiners for nursing home administrators, created in title 66, chapter 31, R.C.M., 1947, renamed the board of nursing home administrators. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of examiners for nursing home administrators means the board of nursing home administrators.

Board of nursing renamed board of nurses.

(18) Montana state board of nursing, created in title 66, chapter 12, R.C.M., 1947, renamed the board of nurses. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana state board of nursing means the board of nurses.

Board of examiners in optometry renamed board of optometrists.

(19) Montana state board of examiners in optometry, created in title 66, chapter 13, R.C.M., 1947, renamed the board of optometrists. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana state board of examiners in optometry means the board of optometrists.

Board of osteopathic examiners renamed board of osteopaths.

(20) State board of osteopathic examiners, provided for in title 66, chapter 14, R.C.M., 1947, renamed the board of osteopaths. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of osteopathic examiners means the board of osteopaths.

Board of pharmacy renamed board of pharmacists.

(21) Montana state board of pharmacy, created in title 66, chapter 15, R.C.M., 1947, renamed the board of pharmacists. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana state board of pharmacy means the board of pharmacists.

Board of plumbing examiners renamed board of plumbers.

(22) Board of plumbing examiners (or the state plumbing board), provided for in title 66, chapter 24, R.C.M., 1947, renamed the board of plumbers. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the board of plumbing examiners or the state plumbing board means the board of plumbers.

Real estate commission renamed board of real estate.

(23) Montana real estate commission, created in title 66, chapter 19, R.C.M., 1947, renamed the board of real estate. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the Montana real estate commission means the board of real estate.

HeinOnline -- 1971 vol. II 1151 1971

Board of veterinary medical examiners renamed board of veterinarians.

(24) State board of veterinary medical examiners, created in title 66, chapter 22, R.C.M., 1947, renamed the board of veterinarians. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state board of veterinary medical examiners means the board of veterinarians.

Board of certification for water and waste operators renamed board of water and waste water operators.

(25) Board of certification for water and waste water operators, provided for in title 69, chapter 59, R.C.M., 1947, renamed the board of water and waste water operators. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the board of certification for water and waste water operators means the board of water and waste water operators.

Water well contractors' examining board renamed board of water well contractors.

(26) Water well contractors' examining board of the state of Montana, created in title 66, chapter 26, R.C.M., 1947, renamed the board of water well contractors. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the water well contractors' examining board of the state of Montana means the board of water well contractors.

Duties of department.

82A-1603. **Department—Duties.** In addition to the provisions of section 82A-108 of this act, the department shall:

(1) Provide all the administrative and clerical services needed by the boards within the department, including corresponding, taking applications for licenses, issuing licenses granted by the boards, renewing licenses, registering, taking minutes of board meetings and hearings, and filing.

(2) Standardize and keep in Helena all official records of the boards.

(3) Make arrangements and provide facilities in Helena for the meetings, hearings, and examinations of each board, or elsewhere in the state if requested by the board.

(4) Administer and grade examinations required by each board or by law for licensing, unless the board determines that experts or professionals are necessary to administer or grade a particular examination.

(5) At the request of a board, investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the department.

HeinOnline -- 1971 vol. II 1152 1971

(6) Assess the costs of the department to the boards on a pro rata basis according to the number of man-days and the actual operating costs of the department for each board.

82A-1604. **Director—Duties.** In addition to his powers and duties under section 82A-107 and 82A-108 of this act, the director shall: Duties of director.

(1) Appoint impartial legal counsel to conduct hearings before each board within the department whenever any board holds a hearing. The legal counsel appointed shall see that hearings are conducted in a proper and legal manner.

(2) Whenever the department conducts an investigation of a complaint of illegal or unethical conduct of a member of a particular profession or occupation as prescribed in section 82A-1603(5) of this chapter, and if requested by the appropriate board, appoint an impartial member of that profession or occupation to assist the department in its investigation. The member so appointed may not be a member of the board having jurisdiction over the particular profession or occupation.

(3) Hire all personnel to perform the administrative and clerical functions of the department for the boards. Boards within the department have no authority to hire personnel.

82A-1605. **Boards within department—Duties.** Except for the inspection and code-making functions of the state electrical board transferred to the department of law enforcement and public safety and enumerated in chapter 12 of this act, and subject to the administrative control of the department and the director of professional and occupational licensing as set forth in section 82A-108 of this act and under this chapter, each agency transferred to the department shall continue to exercise its prescribed statutory functions. In addition, each board within the department shall: Duties of boards within the department.

(1) Set and enforce standards, rules, and regulations governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within its jurisdiction.

(2) Sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential

HeinOnline -- 1971 vol. II 1153 1971

member of the particular profession or occupation within its jurisdiction. The hearings shall be conducted by the legal counsel appointed under section 82A-1604(1) of this chapter.

(3) Pay to the department its pro rata share of the assessed costs of the department under section 82A-1603 (6).

Members.

82A-1606. **Board within department — Composition, etc.** The members of boards within the department before the effective date of this chapter continue as members for the remainder of their terms. The composition, qualifications, method of appointment, terms of office, compensation, and reimbursement of the members of the boards within the department remain as prescribed by law, except:

Replacement designations enumerated.

(1) The executive officer of the Montana state department of health, or his designee, and the administrator of the Montana state department of public welfare, or his designee, are replaced by the director of the department of health and environmental sciences, or his designee, and the director of the department of social and rehabilitation services, or his designee, respectively, on the Montana state board of examiners for nursing home administrators, renamed the board of nursing home administrators in this chapter.

(2) The appointed representative of the state board of health is replaced by the appointed representative of the department of health and environmental sciences on the board of plumbing examiners, renamed the board of plumbers in this chapter.

(3) The director of the division of environmental sanitation or a qualified member of his staff appointed by the director is replaced by the administrator of the division of environmental sciences of the department of health and environmental sciences or a qualified member of his staff appointed by the administrator on the board of certification for water and waste water operators, renamed the board of water and waste water operators in this chapter.

(4) The state engineer and the director of the division of environmental sanitation of the state board of health are replaced by the administrator of the division of water resources of the department of natural resources

HeinOnline -- 1971 vol. II 1154 1971

and conservation and the administrator of the division of environmental sciences of the department of health and environmental sciences, respectively, on the water well contractors' examining board of the state of Montana, renamed the board of water well contractors in this chapter.

CHAPTER 17. DEPARTMENT OF PUBLIC SERVICE REGULATION.

Department of public service regulation created.

82A-1701. **Department of Public Service Regulation—Creation; Head.** There is created a department of public service regulation. The department head is the public service commission provided for in section 82A-1702 of this chapter.

Public service commission.

82 A-1702. **Public Service Commission — Continued; Composition.** (1) The public service commission, created in title 70, chapter 1, R.C.M., 1947, and its functions are continued.

Members.

(2) The composition, method of selection, and terms of office of members of the commission remain as prescribed in section 72-101, R.C.M., 1947. Members of the board of railroad commissioners ex officio public service commission before the effective date of this chapter continue as members of the public service commission for the remainder of their terms.

Board of railroad commissioners abolished—functions transferred.

82A-1703 **Board of Railroad Commissioners abolished; Functions transferred to department.** The board of railroad commissioners of the state of Montana, created in title 72, chapter 1, R.C.M., 1947, is abolished, and its functions are transferred to the public service commission. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the board of railroad commissioners means the public service commission.

CHAPTER 18. DEPARTMENT OF REVENUE.

Department of revenue created.

82A-1801. **Department of Revenue—Creation; Head.** There is created a department of revenue. The department head is the state board of equalization, provided for in article XII, section 15 of the Montana constitution.

Functions transferred.

82A-1802. **Additional functions transferred to department.** The functions of the secretary of state, which are contained in section 14-528, R.C.M., 1947 (pertaining to rural electric and telephone cooperatives license tax),

HeinOnline -- 1971 vol. II 1155 1971

are transferred to the department. Unless inconsistent with this act, any reference to the secretary of state in section 14-528, R.C.M., 1947, means the department of revenue.

Functions continued.

82A-1803. **Functions of the State Board of Equalization continued.** (1) The functions of the state board of equalization are continued in the board, which board is created in article XII, section 15 of the Montana constitution.

Advisory council.

(2) The board shall appoint an advisory council for the purpose of complying with article VI, section 1 (b) of the multi-state tax compact, section 84-6701, R.C.M., 1947. The council shall be appointed in accordance with the provisions of section 82A-110 of this act.

Director of revenue.

82A-1804. **Director of Revenue—Creation.** (1) There is created the position of director of revenue.

Duties.

(2) The director is the chief administrative officer of the department under the direction of the state board of equalization and he shall perform those functions that are delegated to him by the board and in addition shall prepare revenue estimates of state revenue from all sources and shall continuously study fiscal problems and tax structures of state and local governments and submit the studies to the governor and legislative assembly at their request.

Appointment.

(3) The director of revenue shall be appointed and serve as provided for directors in section 82A-106 of this act.

Montana liquor control board.

82A-1805. **Montana Liquor Control Board—Continued; Transfer; Designation.** (1) The Montana liquor control board, recated in title 4, chapter 1, R.C.M., 1947, and its functions are continued.

Transfer.

(2) The board is transferred to the department of revenue for administrative purposes only as prescribed in section 82A-108 of this act. However, the board may hire its own personnel, and section 82A-108(2)(d) does not apply.

Quasi-judicial board.

(3) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act.

Tax compact advisory committee abolished.

82A-1806. **Multistate Tax Compact Advisory Committee abolished.** The multistate tax compact advisory com-

HeinOnline -- 1971 vol. II 1156 1971

mittee, provided for in section 84-6704, R.C.M., 1947, is abolished.

CHAPTER 19. DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES.

Department of social and rehabilitation services created.

82A-1901. **Department of Social and Rehabilitation Services—Creation; Head.** There is created a department of social and rehabilitation services. The department head is a director of social and rehabilitation services appointed by the governor in accordance with section 82A-106 of this act.

Department and board—public welfare—abolished.

82A-1902. **Agencies abolished; Functions transferred to department.** (1) The state department of public welfare and its units, including the state board of public welfare and the state administrator of public welfare, created in title 71, chapter 2, R.C.M., 1947, are abolished, and their functions, except the quasi-judicial functions transferred to the board of social and rehabilitation appeals in section 82A-1907 of this chapter, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the state department of public welfare, the state board of public welfare, or the state administrator of public welfare, except the references relating to the quasi-judicial functions transferred to the board of social and rehabilitation appeals in section 82A-1907 of this chapter, means the department of social and rehabilitation services.

Functions transferred.

References.

Division of vocational rehabilitation abolished—functions transferred.

(2) The division of vocational rehabilitation, created in title 41, chapter 8, R.C.M., 1947, under the jurisdiction of the state board of education, is abolished, and its functions are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the division of vocational rehabilitation means the department of social and rehabilitation services.

Commission on aging abolished—functions transferred.

(3) The commission on aging, created in title 82, chapter 35, R.C.M., 1947, is abolished, and its functions, except the quasi-judicial functions transferred to the board of social and rehabilitation appeals in section 82A-1907 of this chapter, are transferred to the department. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the commission on aging, except the references relating to the quasi-judicial functions transferred to the board of social and rehabili-

HeinOnline -- 1971 vol. II 1157 1971

tation appeals in section 82A-1907 of this chapter, means the department of social and rehabilitation services.

Council on human resources abolished.

(4) The council on human resources, administratively created, is abolished, and its functions are transferred to the department.

Functions transferred.

82A-1903. **Additional functions transferred to department.** The functions of the state board of education which are contained in title 41, chapter 8, R.C.M., 1947 (pertaining to vocational rehabilitation and education), except the quasi-judicial functions transferred to the board of social and rehabilitation appeals in section 82A-1907 of this chapter, are transferred to the department. Unless inconsistent with this act, any reference in title 41, chapter 8, R.C.M., 1947, to the state board of education, except the references relating to the quasi-judicial functions transferred to the board of social and rehabilitation appeals in section 82A-1907 of this chapter, means the department of social and rehabilitation services.

County departments of public welfare continued—supervision.

82A-1904. **County Departments of Public Welfare—Continued; Supervision.** The county departments of public welfare, including the county boards of public welfare, created in title 71, chapter 2, R.C.M., 1947, are continued, and are under the supervision of the department.

Veterans' welfare commission renamed board of veterans' affairs.

82A-1905. **Veterans' Welfare Commission — Continued; Renamed Board of Veterans' Affairs; Transfer.** (1) The veterans' welfare commission of the state of Montana, created in title 77, chapter 10, R.C.M., 1947, and its functions are continued, and the commission is renamed the board of veterans' affairs. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the veterans' welfare commission of the state of Montana means the board of veterans' affairs.

Transfer.

(2) The board is transferred to the department for administrative purposes only as prescribed in section 82A-108 of this act. However, the board may hire its own personnel, and section 82A-108 (2)(d) of this act does not apply.

Term of office.

(3) Members of the board before the effective date of this chapter serve for the remainder of their terms. The composition, method of appointment, terms of office, and qualifications of board members remain as prescribed in section 70-1001, R.C.M., 1947. Members shall be compen-

Compensation.

HeinOnline -- 1971 vol. II 1158 1971

sated and reimbursed as are members of advisory councils under section 82A-110 of this act.

82A-1906. **Board of Social and Rehabilitation Appeals —Creation; Allocation; Composition; Functions; Designation.** (1) There is created a board of social and rehabilitation appeals.

Board of social and rehabilitation appeals allocation.

(2) The board is allocated to the department for administrative purposes only as prescribed in section 82A-108 of this act.

(3) The board consists of three (3) members, appointed by the governor as prescribed in section 82A-112 of this act, as follows:

Three members appointed.

(a) The director of the department, who shall act as chairman of the board. The director does not have a term on the board as a board member, but shall serve at the pleasure of the governor.

Director.

(b) Two members of the general public.

(4) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act. For purposes of that section, a majority shall be considered as one (1).

Quasi-judicial board.

82A-1907. **Functions transferred to Board of Social and Rehabilitation Appeals.** (1) The quasi-judicial functions of the state department of public welfare, including the state board of public welfare, which are contained in title 71, chapters 2 through 7, 12, 14, and 15, R.C.M., 1947 (pertaining to public welfare), are transferred to the board of social and rehabilitation appeals. Unless inconsistent with this act, any reference in title 71, chapters 2 through 7, 12, 14, and 15, R.C.M., 1947, to the state department of public welfare or to the state board of public welfare relating to the quasi-judicial functions transferred to the board of social and rehabilitation appeals means the board of social and rehabilitation appeals.

Functions transferred.

References.

(2) The quasi-judicial functions of the state board of education, which are contained in title 41, chapter 8, R.C.M., 1947 (pertaining to vocational rehabilitation and education), are transferred to the board of social and rehabilitation appeals. Unless inconsistent with this act, any reference in title 41, chapter 8, R.C.M., 1947, to the state board of education relating to the quasi-judicial

Functions transferred.

HeinOnline -- 1971 vol. II 1159 1971

functions transferred to the board of social and rehabilitation appeals means the board of social and rehabilitation appeals.

Functions transferred.

(3) The quasi-judicial functions of the commission on aging, which are contained in the "State Plan for Aging" submitted to and approved by the administration on aging of the division of social and rehabilitative services of the United States department of health, education and welfare in 1965, are transferred to the board of social and rehabilitation appeals.

Additional agencies abolished.

82A-1908. **Additional agencies abolished.** The following agencies are abolished:

(1) The day care advisory council, provided for in section 10-803, R.C.M., 1947.

(2) The personnel committee of the department of public welfare, administratively created.

(3) The educational leave committee of the department of public welfare, administratively created.

(4) The advisory committee on children and youth of the council on human resources, administratively created.

(5) The medical assistance advisory council, provided for in section 71-1513, R.C.M., 1947.

CHAPTER 20. THE DEPARTMENT OF FISH AND GAME.

Department of fish and game created.

82A-2001. **Department of Fish and Game—Creation; Head.** There is created a department of fish and game. The department head is the state fish and game commission provided for in section 82A-2004 of this chapter, but section 82A-107 of this act does not apply to the commission as a department head.

Fish and game department abolished—functions transferred.

82A-2002. **Functions transferred to department.** The fish and game department, provided for in title 26, chapter 1, R.C.M., 1947, and its units are abolished, and their functions are transferred to the department of fish and game created in this chapter. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the fish and game department means the department of fish and game created in this chapter.

Director.

82A-2003. **Director of Fish and Game Department—Continued.** The position of state fish and game director and its functions are continued. The state fish and game

HeinOnline -- 1971 vol. II 1160 1971

director before the effective date of this chapter continues as the state fish and game director, until the first Monday of January, 1973, and until his successor is appointed and qualified. Thereafter, the director shall be appointed by the governor in the manner set forth in section 82A-106 of this act, except that the director shall serve for a term concurrent with that of the governor's term, and the director may be removed from office by the governor only for neglect of duty, incompetency or other good cause, and after a full hearing on verified charges filed at least twenty (20) days before said hearing and served on said officer at least twenty (20) days before said hearing. The state fish and game director is not a department head for purposes of section 82A-107 of this act.

Appointment.

Removal.

Hearing.

82A-2004. **State Fish and Game Commission—Continued; Functions; Designation.** (1) The state fish and game commission, created in title 26, chapter 1, R.C.M., 1947, and its functions, except the function of appointing and removing the state fish and game director provided for in section 26-106, R.C.M., 1947, are continued.

State fish and game commission continued.

(2) The state fish and game commission is designated as a quasi-judicial board for purposes of section 82A-112 of this act.

Quasi-judicial board.

CHAPTER 21. MISCELLANEOUS TRANSFERS

82A-2101. **Federal-State coordinator transferred to governor's office.** The office of the federal-state coordinator, administratively created, is transferred to the office of the governor.

Office of federal-state coordinator transferred.

82A-2102. **Board of state canvassers transferred to secretary of state.** The board of state canvassers, created in section 23-4016, R.C.M. 1947, is transferred to the office of the secretary of state.

Board of state canvassers transferred.

82A-2103. **State board of hail insurance — continued; transfer.** (1) The state board of hail insurance, created in title 82, chapter 15, R.C.M. 1947, and its functions are continued.

State board of hail insurance.

(2) The board is transferred to the office of the state auditor for administrative purposes only as prescribed in section 82A-108 of this act. For purposes of this subsection and section 82A-108, the state auditor and the office

Transfer.

HeinOnline -- 1971 vol. II 1161 1971

of the state auditor shall be considered to be a department head and a department, respectively.

Terms of office. (3) Members of the board before the effective date of this chapter serve for the remainder of their terms. The composition, method of appointment, terms of office, compensation, reimbursement, and qualifications of board members remain as prescribed by law."

Repealing clause. Section 2. Section 27-427, R.C.M. 1947, is repealed.

Repealing clause. Section 3. Sections 59-901 and 59-902, R.C.M. 1947, are repealed.

Intent of act. Section 4. It is not the intent of this act to repeal or amend any laws relating to functions performed by an agency, unless specifically provided in this act or unless there is an irreconcilable conflict between this act and those laws.

Severability clause. Section 5. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Effective dates. Section 6. Chapters 1 and 21 of Section 1 of this act and Sections 4 and 5 of this act are effective upon its passage and approval. Chapters 2 through 20 of section 1 of this act are effective upon the date the governor signs an executive order implementing the chapter or on December 31, 1972, whichever occurs first. The governor shall file the executive order with the secretary of state on the day the order is signed. The secretary of state shall file and record the order and send a copy of the order to each addressee on his official mailing list for the Revised Codes of Montana and to each addressee on the mailing list of the publisher of the Revised Codes of Montana. Section 2 of this act is effective when Chapter 4 of Section 1 of this act is effective, and Section 3 is effective when Chapter 2 of Section 1 of this act is effective.

Approved March 10, 1971

CHAPTER NO. 273

An Act Providing for Building Restrictions and Zoning and Subdivision Regulations by Cities, Towns and

HeinOnline -- 1971 vol. II 1162 1971

Counties; Providing for Boards of Adjustment and the Duties Thereof; Providing for City, County and City-County Planning Boards; Providing Definitions; Providing Qualifications for Members of Boards; Providing for a Master Plan and a Jurisdictional Area; Providing for Plats of Subdivisions; Providing for Planning and Zoning Districts; Amending Sections 11-2702, 11-3801, 11-3810, 11-3811, 11-3812, 11-3815, 11-3825, 11-3842, 11-3843, 11-3844, 11-3846, 11-3847, 11-3848, 11-3851, R.C.M., 1947, and Adding New Section 11-3830.2, and Amending Sections 16-4101, 16-4702, 16-4703, 16-4705, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-2702, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-2702. **Districts for effecting building restrictions.** *(1)* For any or all of said purposes the local city or town council or other legislative body may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts. Local authority may designate zoning districts. Regulate construction or land.

(2) The local city or town council, or other legislative body which has adopted a master plan pursuant to Title 11, chapter 38 may extend the application of its zoning or subdivision regulations or both beyond its limits in any direction, but not in a county which has adopted such regulations within the contemplated area; provided that a city of the first class as defined in section 11-201 of this code may not extend the application of its zoning or subdivision regulations or both more than three (3) miles beyond its limits, a city of the second class may not so extend more than two (2) miles beyond its limits, and a city or town of the third class may not so extend more than one (1) mile beyond its limits. Provided, further, that where two or more noncontiguous cities have boundaries so near to one another as to create an area of potential conflict in the event that all cities concerned should exercise Council may extend zoning or subdivision regulations. Exception. Limitations. Boundary line to avoid conflict.

HeinOnline -- 1971 vol. II 1163 1971

the full powers conferred by this section, then the extension of zoning or subdivision regulations or both by these cities shall terminate at a boundary line agreed upon by the cities so concerned. Any city or town council or other legislative body, may thereafter enforce such regulations in the area to the same extent as if such property were situated within its corporate limits, until the county board adopts a master plan pursuant to Title 11, chapter 38 and accompanying zoning or subdivision resolutions or both which include the area. As a prerequisite to the exercise of this power, a city planning board must be increased to include two (2) representatives from the unincorporated area which is to be affected. These representatives shall be appointed by the board of county commissioners. Such representation, however, shall cease when the county board adopts a master plan pursuant to Title 11, chapter 38 and accompanying zoning or subdivision resolutions or both which include the area.

Enforcement.

Increased city planning board.

A city or town, which has as its plan of government the commission-manager plan, shall be excluded from the provision of section 11-2702 (2) which defines extra-territorial authority to review proposed subdivisions."

Exclusion.

Amending clause.

Section 2. Section 11-3801, R.C.M. 1947, is amended to read as follows:

"11-3801. **City planning boards,** *county planning boards and* **city-county planning boards authorized — purpose of act.** *The governing body of any city or town, the governing bodies of more than one city or town, or the governing body of any county, or any combination thereof, may create a planning board in order to promote the orderly development of its governmental units and its environs.* It is the object of this legislation to encourage local units of government to improve the present health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end that highway systems be carefully planned, that new community centers grow only with adequate highway, utility, health, educational, and recreational facilities; that the needs of agriculture, industry, and business be recognized in future growth; that residential areas provide healthy surroundings for family life; and that the growth of the community be commensurate with and promotive of the efficient and economical use of public funds.

Authority to create planning board.

Purpose of legislation.

HeinOnline -- 1971 vol. II 1164 1971

In accomplishing this abjective, it is the intent of this legislation that the planning board shall serve in an advisory capacity to presently established boards and officials.

Planning board serves in advisory capacity.

Before a county planning board may be created, the board of county commissioners shall, by resolution, give public notice of their intent to create such planning board and of a public hearing thereon, by publication of notice of time and place of hearing on such resolution in each newspaper published in the county not less than fifteen (15) nor more than thirty (30) days prior to the date of hearing. A resolution creating a county planning board shall not be adopted by the board of county commissioners if disapproved in writing, not later than sixty (60) days after such hearing, by a majority of the qualified electors of the county residing outside the limits of the jurisdictional area of an existing city-county planning board established pursuant to section 11-3830 and outside the incorporated limits of each city and town in the county.''

Resolution.

Hearing. Publication of notice.

Section 3. Section 11-3810, R.C.M. 1947, is amended to read as follows:

Amending clause.

''11-3810. *County planning boards and* **city-county planning boards — members — term of officer members and citizen members.** 1. A city-county planning board shall consist of not less than nine (9) members to be appointed as follows:

City-county board—nine members appointed.

a. Two (2) official members to be appointed by the board of county commissioners who may in the discretion of the board of county commissioners be employed by or hold public office in the county.

b. Two (2) official members to be appointed by the city council who may in the discretion of the city council be employed by or hold public office in the city.

c. Two (2) citizen members to be appointed by the mayor of the city.

d. Two (2) citizen members to be appointed by the board of county commissioners. The two (2) members may reside outside the city limits but within the jurisdictional area of the planning board.

e. The ninth member shall be selected by the eight (8) officers and citizen members hereinabove provided for

HeinOnline -- 1971 vol. II 1165 1971

with the consent and approval of the board of county commissioners and the city council.

County board—five members appointed.

2. County planning boards shall consist of not less than five (5) members appointed by the board of county commissioners.

Additional members.

In the event that any city or town subsequently becomes represented on the county planning board pursuant to section 11-3815, additional members of the planning board representing such cities or towns shall be appointed by the respective city councils.

Terms of office.

3. The terms of the members who are officers of any governmental unit represented on the board shall be coextensive with their respective terms of office to which they have been elected or appointed; the terms of the other members shall be two (2) years, except that the terms of the first members appointed shall be fixed by agreement and rule of the governing bodies represented on the board for one (1) or two (2) years in order that a minimum number of terms shall expire in any year."

Amending clause.

Section 4. Section 11-3811, R.C.M. 1947, is amended to read as follows:

Vacancies.

"11-3811. **Vacancies.** Vacancies occurring on the board of official members, and by death or resignation of citizen members, shall be filled by the governing bodies having appointed them for the unexpired term.

Vacancies occurring in citizen members on the *city-county planning* board at the end of a term shall be filled alternately by the mayor and the board of county commissioners represented on the board, commencing with the mayor. *Vacancies occurring in citizen members on the county planning board at the end of a term shall be filled by the board of county commissioners.* In the event more than one (1) city is represented on a board the representation and appointments to be made by the respective cities and counties shall be by agreement and rule of the board."

Amending clause.

Section 5. Section 11-3812, R.C.M. 1947, is amended to read as follows:

Qualifications.

"11-3812. **Citizen members of** *county planning board and* **city-county** *planning* **board — qualifications.** *The citizen members of the county planning board shall be resident freeholders in the area over which the planning*

HeinOnline -- 1971 vol. II 1166 1971

board has jurisdiction. The citizen members of the city-county planning board shall be resident freeholders in the area over which the planning board has jurisdiction, provided, however, that at least two (2) of such members shall be resident freeholders in the area, if any, outside the city limits over which the planning board has jurisdiction."

Amending clause.

Section 6. Section 11-3815, R.C.M. 1947, is amended to read as follows:

Increase in representation—other cities and counties.

"11-3815. **Representation of additional cities, towns, or county on existing boards.** Any city, county, or town, or any combination thereof wishing to be represented upon an existing planning board, may by agreement of the governing body or bodies then represented upon the board, obtain representation thereon and share in the membership duties and costs of the board upon a basis agreeable to the governing body or bodies creating the board.

Increase in jurisdictional area.

The membership *as well as the jurisdictional area* of any board may be increased to provide for representation *and planning* of any additional cities, counties, or towns seeking representation.

Appropriations.

Any city, county, or town which becomes represented upon an existing planning board pursuant to this section may appropriate funds for expenses necessary to cover the costs of such representation. The governing bodies of any city or county so being represented may levy on all property which is added to the jurisdictional area of an existing board by such representation a tax for planning board purposes under procedures set forth in Title 16, chapter 19, R.C.M. 1947, or Title 11, chapter 14, R.C.M. 1947, whichever is applicable; provided such tax shall not exceed the maximum levy authorized in Section 11-3825, R.C.M. 1947."

Levy.

Limitation.

Amending clause.

Section 7. Section 11-3825, R.C.M. 1947, is amended to read as follows:

Funds for operation.

"11-3825. **Funds for operation — tax levy authority.** 1. After a city council has by ordinance, *a* board of county commissioners *has,* by ordinance and resolution, *or a city council and board of county commissioners have, by ordinance and resolution,* created a planning board, the

HeinOnline -- 1971 vol. II 1167 1971

governing bodies represented upon such board may appropriate funds to carry out the duties of the planning board.

Proportion of expenditures.

2. When a planning board has been created by agreement of more than one (1) governmental unit, the governing bodies of the governmental units which have created the board shall agree upon the proportion of expenditures to be borne by each such unit and may budget and appropriate the funds necessary for the respective shares thus agreed upon.

Levy not to exceed two mills.

Limitation.

3. The governing body of any city or town represented upon a planning board may levy a tax upon the property located within such city or town not to exceed *two (2)* mills for planning board purposes, under procedures set forth in Title 11, chapter 14, R.C.M. 1947, *provided such tax shall not exceed the maximum levy authorized in Section 11-3825, paragraph 6, R.C.M. 1947.*

Board may create planning district.

Levy.

Limitation.

4. When a city-county planning board has been established, the board of county commissioners may create a planning district which shall include that property within the jurisdictional areas as established pursuant to section 11-3830, which lies outside the limits of any incorporated cities and towns; and the board of county commissioners may levy on all property located within such planning district a tax for planning board purposes, under procedures set forth in Title 16, chapter 19, R.C.M. 1947, *provided such tax shall not exceed the maximum levy authorized in section 11-3825, paragraph 6, R.C.M. 1947.*

Board may create planning district.

Levy not to exceed two mills.

5. When a county planning board has been established, the board of county commissioners may create a planning district which shall include that property which lies outside the limits of the jurisdictional area as established pursuant to section 11-3830 or as modified pursuant to section 11-3830.2 in counties where a city-county planning board has been established as well as that property which lies outside the limits of any incorporated cities and towns; and the board of county commissioners may levy on all property located within such planning district a tax not to exceed two (2) mills for planning board purposes under procedures set forth in Title 16, chapter 19, R.C.M. 1947.

Limitations on tax levies—cities.

6. The tax levy for planning board purposes shall be limited as follows: a city of the first class, as defined in section 11-201 of this code, may levy a tax not to exceed

HeinOnline -- 1971 vol. II 1168 1971

two (2) mills; a city of the second class may levy a tax not to exceed four (4) mills; a city of the third class may levy a tax not to exceed six (6) mills and a town may levy a tax not to exceed six (6) mills.

Counties.

A county of the first class, as defined in section 16-2419 of this code, may levy a tax not to exceed two (2) mills; a county of the second class may levy a tax not to exceed three (3) mills; a county of the third class may levy a tax not to exceed four (4) mills; a county of the fourth class may levy a tax not to exceed five)5) mills and counties of the fifth, sixth and seventh classes may levy a tax not to exceed six (6) mills."

Section 8. There is added to Title 11, chapter 38, R.C.M. 1947, a new section which is to read as follows:

11-3830.2. **Jurisdictional area — county planning board.** (1) The board of county commissioners shall by resolution establish the jurisdictional area of the county planning board. The jurisdictional area shall include the area which is both outside the incorporated limits of any city in the county as well as outside the jurisdictional area of an existing city-county planning board established pursuant to section 11-3830. Should any city or town become represented on the county planning board pursuant to section 11-3815, the jurisdictional area of the county planning board shall be extended to include those cities or towns.

Resolution to establish jurisdictional area.

(2) The planning board, after the approval of the jurisdictional area by the board of county commissioners, shall file in the office of the clerk and recorder a map showing the boundaries of the jurisdictional area. The boundaries may be revised from time to time by resolution of the board of county commissioners. Such revised boundaries shall be shown upon a map which shall be filed as provided in this section. The area included in such map shall constitute the area over which the planning board shall have advisory jurisdiction.

Map of boundaries filed with county clerk and recorder.

Revised boundaries.

(3) In case an unincorporated area is within the potential jurisdiction of more than one planning board, then the boundary between the conflicting areas shall be determined by agreement between the planning boards involved, with the approval of their respective governing bodies. Any map showing the boundary line so agreed

Boundary line to avoid conflict.

Map filed.

HeinOnline -- 1971 vol. II 1169 1971

upon and approved shall be filed as provided in this section and thereafter shall fix the limit of territorial jurisdiction with respect to planning boards.

(4) In case the jurisdictional area of a city-county planning board, which is established subsequent to the establishment of a county planning board, is potentially within the jurisdiction of the county planning board, then the property outside any incorporated city between the conflicting areas shall be determined by agreement between the planning boards involved with the approval of the respective governing bodies and a map showing the boundary lines so agreed upon shall be filed as provided in this section and thereafter shall fix the limits of the territorial jurisdiction of the respective planning boards.

Boundary line.

Map filed.

Amending clause. Section 9. Section 11-3842, R.C.M. 1947, is amended to read as follows:

"11-3842. **Plats of subdivisions — approval by planning board.** *(1)* Where a master plan has been approved, the city council may by ordinance *or the board of county commissioners may by resolution* require subdivision plats to conform to the provisions of the master plan. Certified copies of such ordinance shall be filed with the city or town clerk and with the county clerk and recorder of the county.

Subdivision plats shall conform to master plan.

(2) Thereafter a plat involving lands within the corporate limits of the city and covered by said master plan shall not be filed without first presenting it to the planning board which shall make a report to the city council advising as to compliance or noncompliance of the plat with the master plan. The city council shall have the final authority to approve the filing of such plat.

Approval of plat prior to filing—lands within corporate limits.

(3) Thereafter a plat involving lands outside the corporate limits of the city and covered by said master plan shall not be filed without first presenting it to the planning board which shall make a report to the board of county commissioners advising as to compliance or noncompliance of the plat with the master plan. The board of county commissioners shall have the final authority to approve the filing of such plat.

Approval of plat prior to filing—lands outside corporate limits.

(4) Nothing herein contained shall be interpreted to limit the present powers of the city or county governments, but shall be an additional requirement before any plat may be filed of record or entitled to be recorded."

Additional requirement.

HeinOnline -- 1971 vol. II 1170 1971

Amending clause.

Section 10. Section 11-3843, R.C.M. 1947, is amended to read as follows:

"11-3843. **Application for approval of plat.** *(1)* A person desiring the approval of a plat involving lands within the *jurisdictional area of a planning board* covered by *a* master plan *after the passage of such ordinance or resolution* shall submit a written application for a certificate together with a copy of the proposed plat to the planning board having jurisdiction.

Application.

(2) When the board tentatively finds that the application conforms to the requirements of the master plan or subdivision ordinance, it shall set a date for a hearing, notify the applicant in writing and notify by general publication or otherwise any person or governmental unit having a probable interest in the proposed plat."

Hearing.
Notice.

Amending clause.

Section 11. Section 11-3844, R.C.M. 1947, is amended to read as follows:

Determinations for approval.

"11-3844. **Determination of whether application for approval should be granted.** In determining whether an application for approval shall be recommended the board shall determine if the plat provides for:

1. Co-ordination of subdivision streets with existing and planned streets or highways.

2. Co-ordination with an extension of facilities included in the master plan.

3. Establishment of minimum width, depth, and area of lots within the projected subdivision.

4. Fair allocations of areas for streets, parks, and utilities."

Amending clause.

Section 12. Section 11-3846, R.C.M. 1947, is amended to read as follows:

Decision of board within 45 days.

"11-3846. **Approval or disapproval of application for plat.** After hearing and within forty-five (45) days after application for approval of the plat, the board shall recommend approval or disapproval to the city council *or board of county commissioners, whichever is applicable.* If the board recommends disapproval, it shall set forth its reasons in a communication to the city council *or the board of county commissioners* and provide the applicant with a copy."

Reasons for disapproval.

HeinOnline -- 1971 vol. II 1171 1971

Amending clause.

Section 13. Section 11-3847, R.C.M. 1947, is amended to read as follows:

Uniform fees.

"11-3847. **Fees.** The city council *or the board of county commissioners* shall establish a uniform schedule of fees proportioned to the cost of checking and verifying the proposed plats. An applicant shall pay the specified fee at the time of filing his application. These fees shall be credited to a fund established by the governing bodies for the planning board."

Amending clause.

Section 14. Section 11-3848, R.C.M. 1947, is amended to read as follows:

"11-3848. **Filing and recording of plat involving lands covered by master plan and ordinance without effect unless approved by city council** *or board of county commissioners.* After a master plan and an ordinance *or resolution* containing provisions for subdivision control and the approval of plats have been adopted and a certified copy of the ordinance *or resolution* has been filed with the county clerk and recorder, the filing and recording of a plat covered by *the* master plan and *an* ordinance *or resolution* shall be without legal effect unless approved by the city council *or the board of county commissioners, whichever is applicable.*"

Plat has no legal effect until approved.

Amending clause.

Section 15. Section 11-3851, R.C.M. 1947, is amended to read as follows:

Review by district court.

"11-3851. **Appeals.** A decision of a city council *or by the board of county commissioners* rejecting a proposed subdivision plat may be reviewed by the district court upon application for a writ of certiorari. The application shall specify the grounds upon which it alleges the illegality of the action of the city council *or the board of county commissioners.*"

Writ of certiorari.

Amending clause.

Section 16. Section 16-4101, R.C.M. 1947, is amended to read as follows:

Public interest or convenience—petition.

"16-4101. **Planning and zoning districts — commission — creation.** Whenever the public interest or convenience may require, and upon petition of sixty per centum (60%) of the freeholders affected thereby, the board of county commissioners is hereby authorized and empowered to order and create a planning and zoning district, and to appoint a commission consisting of five (5) members. The commission is to consist of the three

Planning and zoning district—five member commission.

HeinOnline -- 1971 vol. II 1172 1971

(3) county commissioners, the county surveyor and the county assessor. Members of the commission shall serve without compensation other than reimbursement for duly authorized expenses, and shall be residents of the county in which they serve. The commission hereby is authorized to appoint necessary employees and fix their compensation with the approval of the board of county commissioners, to select a chairman to serve for one (1) year, to appoint a secretary who shall keep permanent and complete records of its proceedings, and to adopt rules governing the transaction of its business. The finances necessary for the transaction of the planning and zoning commission's business and to pay the expenses of the employees and justified expenses of the members of the board shall be paid from a levy of not to exceed one (1) mill on the taxable valuation of the real property within such district, *provided that no such planning or zoning district may be created in an area which has been zoned by an incorporated city pursuant to section 11-2702 (2).*"

Expenses.
Residents of county.
Employees.
Compensation.
Chairman.
Records.
Rules.
Finances.
Levy not to exceed one mill.
Limitation.

Section 17, Section 16-4702, R.C.M., 1947, is amended to read as follows:

Amending clause.

"16-4702. **Recommendations by** *county planning board and* **city-county planning board.** The board of county commissioners shall require the *county planning board and the* city-county planning board to recommend boundaries and appropriate regulations for the various zoning districts. The *county planning board and the* city-county planning board shall make written reports of *their* recommendations to the board of county commissioners, but such recommendations shall be advisory only. *This section shall apply to either the county planning board or the city-county planning board where only one of these planning boards has been established.*"

Planning boards shall recommend boundaries—regulations.
Advisory reports.

Section 18. Section 16-4703, R.C.M. 1947, is amended to read as follows:

Amending clause

"16-4703. **Establishment of districts — regulations for land use — scope — uniformity.** (1) Within the unincorporated portions of a jurisdictional area which has been established under provisions of section *11-3830 or section 11-3830.2,* the board of county commissioners may by resolution establish zoning districts and zoning regulations for all or parts of the jurisdictional area.

Zoning of unincorporated portions.

HeinOnline -- 1971 vol. II 1173 1971

Regulations.

(2) Within some such zoning districts it shall be lawful and within others it shall be unlawful to erect, construct, alter or maintain certain buildings, or to carry on certain trades, industries or callings.

Building and space specifications.

(3) Within each district the height and bulk of future buildings and the area of the yards, courts and other open spaces and the future uses of the land or buildings shall be limited and future building setback lines shall be established.

Uniform regulations.

(4) All such regulations shall be uniform for each class or kind of buildings throughout a district, but the regulations in one (1) district may not differ from those in other districts."

Amending clause.

Section 19. Section 16-4705, R.C.M. 1947, is amended to read as follows:

Required procedures.

"16-4705. **Procedure for adoption of regulations and boundaries.** The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

Notice of public hearing—publication.

(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district shall be published once a week for two (2) weeks in a newspaper of general circulation within the county. The notice shall state:

(a) the boundaries of the proposed district;

(b) the general character of the proposed zoning regulations;

(c) the time and place of the public hearing;

(d) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder.

Opportunity to be heard.

(2) At the public hearing the board *of county commissioners* shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.

Review.

(3) After the public hearing the board *of county commissioners* shall review the proposals of the planning board and shall make such revisions or amendments as it may deem proper.

HeinOnline -- 1971 vol. II 1174 1971

Resolution of intention.

(4) The board *of county commissioners* may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.

Publication—notice of passage.

(5) The board *of county commissioners* shall publish notice of passage of the resolution of intention once a week for two (2) weeks in a newspaper of general circulation within the county. The notice shall state:

(a) the boundaries of the proposed district;

(b) the general character of the proposed zoning regulations;

(c) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;

Protests.

(d) that for thirty (30) days after first publication of this notice the board *of county commissioners* will receive written protests to the creation of the zoning district or to the zoning regulations from persons owning real property within the district whose names appear on the last completed assessment roll of the county.

Adoption.

(6) Within thirty (30) days after the expiration of the protest period the board *of county commissioners* may in its discretion adopt the resolution creating the zoning district and/or establishing the zoning regulations for the district; but if forty (40) percent of the freeholders within such district whose names appear on the last completed assessment roll shall have protested the establishment of the district or adoption of the regulations, the board *of county commissioners* shall not adopt the resolution and no further zoning resolution shall be proposed for the district for a period of one (1) year."

40 per cent protest defeats adoption.

Section 20. There is added to Title 16, chapter 47, R.C.M. 1947, a new section which is to read as follows:

Board may adopt interim zoning map or regulation.

16-4711. If a county is conducting, or in good faith intends to conduct studies within a reasonable time, or has held or is holding a hearing for the purpose of considering a master plan or zoning regulations or an amendment, extension, or addition to either pursuant to this chapter, the board of county commissioners in order to promote the public health, safety, morals, and general welfare may adopt as an emergency measure a temporary interim zoning map or temporary interim zoning regula-

HeinOnline -- 1971 vol. II 1175 1971

tion, the purpose of which shall be to classify and regulate uses and related matters as constitutes the emergency. Such interim resolution shall be limited to one (1) year from the date it becomes effective. The board of county commissioners may extend such interim resolution for one (1) year, but not more than one (1) such extension may be made.

One year limitation.

Extension—one year.

Severability clause.

Section 21. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 10, 1971

CHAPTER NO. 274

An Act to Require the Enrichment of Flour and Bread to Meet Certain Standards of Vitamin and Mineral Content; and to Fix Penalties for Violation of This Act.

WHEREAS, there exists in the diets in this country a widespread deficiency of certain food ingredients essential to the health and well-being of the people, it is necessary and advisable to protect so far as may be possible to the health of the people of this state against such deficiency by providing for the enrichment of certain kinds of flour and bread, to increase the content of such essential ingredients, normally present in wheat. In the accomplishment of such purposes, it is necessary and advisable to promote uniformity in the laws applicable to interstate and to intrastate shipments of such foods.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

"Flour."

Section 1. When used in this act, unless the context otherwise requires: (1) "Flour" includes and shall be limited to the foods commonly known in the milling and baking industries as:

(a) white flour, also known as wheat flour or plain flour;

(b) bromated flour;

HeinOnline -- 1971 vol. II 1176 1971

(c) self-rising flour, also known as self-rising white flour or self-rising wheat flour, and

(d) phosphated flour, also known as phosphated white flour or phosphated wheat flour, but excludes whole wheat flour and also excludes special flours not used for bread, roll, bun or biscuit baking, such as specialty cake and pancake flours.

"White bread." (2) "White bread" means any bread made with flour as defined in (1) above whether baked in a pan or on a hearth or screen, and which is commonly known or usually represented and sold as white bread, including vienna bread, french bread, and italian bread.

"Rolls." (3) "Rolls" includes plain white rolls and buns of the semi-bread dough type, namely: soft rolls, such as hamburger rolls, hot dog rolls, parker house rolls; and hard rolls, such as vienna rolls, kaiser rolls, yeast-raised sweet rolls or sweet buns made with fillings or coatings, such as cinnamon rolls or buns and butterfly rolls.

"Executive officer." (4) "Executive officer" means the executive officer of the health department of the state of Montana.

"Board." (5) "Board" means the board of health of the state of Montana.

"Department." (6) "Department" means the department of health of the state of Montana.

"Person." (7) "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, or any group of persons whether incorporated or not, engaged in the commercial manufacture or sale of flour, white bread or rolls.

Required vitamins and minerals per pound of flour. Section 2. It shall be unlawful for any person to manufacture, mix, compound, sell or offer for sale, for human consumption in this state, flour unless the following vitamins and minerals are contained in each pound of such flour: not less than 2.0 milligrams and not more than 2.5 milligrams of thiamine; not less than 1.2 milligrams and not more than 1.5 milligrams of riboflavin; not less than 16.0 milligrams and not more than 20.0 milligrams of niacin or niacin-amide; not less than 13.0 milligrams and not more than 16.5 milligrams of assimilable iron (Fe); except in the case of self-rising flour which in addition to the above ingredients shall

HeinOnline -- 1971 vol. II 1177 1971

contain not less than 500 milligrams and not more than 1500 milligrams of assimilable calcium (Ca); provided, however, that the terms of this section shall not apply to flour sold to distributors, bakers or other processors, if the purchaser furnishes to the seller a certificate in such form as the board shall by regulation prescribe, certifying that such flour will be (1) resold to a distributor, baker or other processor, or

Exceptions.

Certificate.

(2) used in the manufacture, mixing or compounding of flour, white bread or rolls enriched to meet the requirements of this act, or

(3) used in the manufacture of products other than flour, white bread or rolls. It shall be unlawful for any purchaser so furnishing a certificate to use or resell the flour so purchased in any manner other than as prescribed in this section.

Required vitamins and minerals per pound of white bread or rolls.

Section 3. It shall be unlawful for any person to manufacture, bake, sell, or offer for sale, for human consumption in this state, any white bread or rolls unless the following vitamins and minerals are contained in each pound of such bread or rolls: not less than 1.1 milligram and not more than 1.8 milligrams of thiamine; not less than 0.7 milligrams and not more than 1.6 milligrams of riboflavin; not less than 10.0 milligrams and not more than 15.0 milligrams of niacin; not less than 8.0 milligrams and not more than 12.5 milligrams of assimilable iron (Fe). The requirements for vitamin and mineral content specified in sections 2 and 3 are identical with those of the federal standards.

Enforcement.

Section 4. (1) The board is hereby charged with the duty and authority to make, amend or rescind rules, regulations and orders for the efficient enforcement of this act.

Modifications to maintain uniformity with interstate standards.

(2) Whenever the vitamin and mineral requirements set forth in section 2 and 3 of this act are no longer in conformity with the legally established standards governing the interstate shipment of enriched flour and enriched white bread or rolls, the department in order to maintain uniformity between intrastate and interstate vitamin and mineral requirements for the foods within the provisions of this act, is authorized and directed to modify or revise such requirements to conform with amended standards governing interstate shipments. The

HeinOnline -- 1971 vol. II 1178 1971

interstate standards referred to are those standards established under authority of the Federal Food, Drug, and Cosmetic Act of 1938, as amended. (Title 21 U.S.C. 301 et seq.).

Executive officer may waive requirements during shortages.

(3) In the event of findings by the executive officer that there is an existing or imminent shortage of any ingredient required by sections 2 or 3 of this act, and that because of such shortage the sale and distribution of flour or white bread or rolls may be impeded by the enforcement of this act, the executive officer shall issue an order, to be effective immediately upon issuance, permitting the omission of such ingredient from flour or white bread or rolls; and if he finds it necessary or appropriate, excepting such foods from labeling requirements until the further order of the executive officer. Any such findings may be made without hearing, on the basis of an order or of factual information supplied by the appropriate federal agency or officer. In the absence of any such order of the appropriate federal agency or factual information supplied by it, the executive officer on his own motion may, and upon receiving the sworn statements of ten (10) or more persons subject to this act that they believe such a shortage exists or is imminent, shall, within twenty (20) days thereafter hold a public hearing with respect thereto at which any interested person may present evidence; and shall make findings based upon the evidence presented. The executive officer shall publish notice of any such hearing at least ten (10) days prior thereto. Whenever the executive officer has reasons to believe that such shortage no longer exists, he shall hold a public hearing, after at least ten (10) days notice shall have been given, at which any interested person may present evidence, and he shall make findings based upon the evidence so presented. If his findings be that such a shortage no longer exists, he shall issue an order to become effective not less than thirty (30) days after publication thereof revoking such previous order; provided, however, that undisposed flour stocks of flour on hand at the effective date, of such revocation order, or flour manufactured prior to such effective date for sale in this state may thereafter be lawfully sold or disposed of.

Findings.

Public hearing.

Publication of notice.

Public hearing.

Findings.

Order revoking waiver.

Publication of rules and regulations.

(4) All orders, rules and regulations adopted by the board pursuant to this act shall be published in the man-

HeinOnline -- 1971 vol. II 1179 1971

ner hereinafter prescribed, and, within the limits specified by this act, shall become effective upon such date as the board shall fix.

Period of publications.

(5) Whenever under this act publication of any notice, order, rule or regulation is required, such publication shall be made at least once in at least one (1) daily newspaper of general circulation printed and published in this state.

Authority to analyse, examine, investigate and enter.

(6) For the purpose of this act, the department or its authorized agents may take samples for analysis, conduct examinations and investigations, and enter, at reasonable times, any factory, mill, bakery, warehouse, shop or establishment where flour, white bread or rolls are manufactured, processed, packed, sold or held, or any vehicle being used for the transportation thereof and inspect any such place or vehicle and any flour, white bread or rolls therein, and all pertinent equipment, materials, containers and labeling.

Penalties for violations.

Section 5. Any person who violates any of the provisions of the act or the orders, rules or regulations promulgated by the board under authority thereof, shall upon conviction thereof be subjected to fine for each and every offense, in a sum not exceeding one hundred dollars ($100) or to imprisonment not to exceed thirty (30) days.

Repealing clause.

Section 6. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed to the extent of such inconsistency.

Approved March 10, 1971

CHAPTER NO. 275

An Act Amending the Motor Carrier Act Requiring Motor Carriers Transporting Livestock for Hire to Obtain a Certificate of Public Convenience and Necessity, Providing for Grandfather Rights and Providing Exemptions.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 8-101, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1180 1971

"8-101. **Definition of terms.** Unless the language or context clearly indicates that different meanings are intended, the following words, terms and phrases shall, for the purposes of this act, be given the meanings hereinafter subjoined to them. Definitions.

(a) The word "board" means the board of railroad commissioners of the state of Montana. "Board."

(b) The term "corporation" means a corporation, company, association or joint-stock association. "Corporation."

(c) The term "person" means an individual, firm or copartnership. "Person."

(d) The word "certificate" means the certificate of public convenience and necessity authorized to be issued under the provisions of this act. "Certificate."

(e) the term "public highway" means every public street, road, highway, or way in this state. "Public highway."

(f) The term "motor vehicle" shall include all vehicles or machines propelled by any power other than muscular used upon the public highways for the transportation of persons and/or property. "Motor vehicle."

(g) The words "between fixed termini or over a regular route" when used in this act, mean the termini or route between or over which any motor carrier usually or ordinarily operates any motor vehicles, even though there may be periodical or irregular departures from said termini or route. Whether or not a motor vehicle is operated by a motor carrier between fixed termini, or over a regular route, or otherwise, within the meaning of this act, shall be a question of fact to be determined by the board. "Between fixed termini or over a regular route."

(h) The term "motor carrier", when used in this act, means every person or corporation, their lessees, trustees, or receivers appointed by any court whatsoever, operating motor vehicles upon any public highway in the state of Montana for the transportation of persons and/or property for hire, on a commercial basis either as a common carrier or under private contract, agreement, charter, or undertaking; provided that nothing in this act shall be construed as affecting motor vehicles used in carrying property consisting of agricultural commodities (not including manufactured products thereof), "Motor carrier." Exemptions.

HeinOnline -- 1971 vol. II 1181 1971

if such motor vehicles are not used in carrying any other property, or passengers, for compensation, or, the operation of school buses which are used in conveying school children to and from district or other schools, or the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by any person, firm or corporation engaged exclusively in the construction or maintenance of highways, or engaged exclusively in logging or mining operations, insofar as the use of employees, supplies and materials in construction and production is concerned, or the transportation of property by motor vehicle within any city, town, or village with a population, according to the latest United States census, of less than five hundred *(500)* persons, or within the commercial areas thereof as determined by the board, or the transportation of newspapers, newspaper supplements, periodicals or magazines, or those tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked or disabled vehicles or while such tow trucks and wreckers ore rendering assistance to abandoned, wrecked or disabled vehicles, or ambulances.

"For hire." (i) The words "for hire" mean for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering or buy-and-sell arrangements whereby a remuneration is obtained or derived for transportation service. An accommodative transportation movement by a person not in the transportation business shall not be construed as a service for hire, even though the persons owning the property transported or persons transported share in the cost or pay for the movement. Nothing in this act shall be construed so as to prevent bona fide leases, brokerage agreements or buy-and-sell agreements.

Exemptions.

"Compensation." (j) The word "compensation", as used in this act, shall mean the charge imposed upon motor carriers in consideration of the use of the highways in this state by such motor carriers, as provided in section 8-116.

"Railroad." (k) The word "railroad" means the movement of cars on rails, regardless of the motive power used therefor."

Exemption—farmers and ranchers. Section 2. The provisions of this act shall not apply to the transportation of livestock by motor carrier by a bona fide farmer, rancher, or raiser of livestock in his own vehicle or vehicles, or when such farmer, rancher, or raiser of livestock provides transportation for the livestock of

HeinOnline -- 1971 vol. II 1182 1971

another farmer, rancher, or raiser of livestock between farm and farm, ranch and ranch, pasture and pasture, or to a point.

Class B certificate required to haul livestock for hire.

Section 3. No person, firm, corporation, association or its or their officers, agents, employees, or servants, shall operate any motor vehicle or combination of vehicles in the commercial transportation of livestock for hire, without having first obtained a class B certificate of public convenience and necessity from the board. Provided, however, if any such person, firm, corporation, association or its or their officers, agents, employees, or servants, or its or their legal predecessor in interest, was in bona fide operation as a motor carrier, transporting livestock commercially, on July 1, 1970, over the territory for which application is made and has so operated since that time, or, if engaged in a seasonal service, was in bona fide operation during the season ordinarily covered during the year 1970, and has so operated since that time, upon such proof thereof as may be required by the board, the board shall issue a class B certificate of public convenience and necessity authorizing commercial transportation of livestock throughout the state without a hearing therefor, if application for such certificate is made to the board as provided in section 8-109 of this code, within one hundred eighty (180) days after July 1, 1971. Otherwise, the application for a certificate shall be granted or denied by the board as provided for in section 8-111 of this code. Nothing herein provided shall relieve the holder of a class B certificate authorizing the commercial tranpsortation for hire of livestock as provided for herein from any obligation, duty, fee or other requirement of the motor carrier act.

Motor carrier in business prior to July 1, 1970.

Application within 180 days after July 1, 1971.

Approved March 10, 1957.

CHAPTER NO. 276.

An Act to Amend Section 28-125, R.C.M., 1947, Providing for Clarification of Those Laws which Ex Officio Fire Wardens Shall Enforce.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 28-125, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1183 1971

Ex officio fire wardens for law enforcement.

"28-125. **Ex Officio fire wardens—powers.** The officers, employees and persons hereinafter designated are hereby declared ex officio fire wardens to serve without compensation for the *purposes* of enforcing the penal provisions of this act, *enforcing any rule or regulation promulgated by the Montana state board of forestry pursuant to this act, and enforcing any state or federal forest laws:* Members of the Montana state board of forestry, the state forester and all regular employees of his office, officers of organized forest protection districts, members of the Montana highway patrol, all field officers, in the United States forest service residing in Montana, game and deputy game wardens, officers of the national park service and the Indian service situated in Montana. *For those purposes set forth above,* such ex officio fire wardens shall have all the powers vested by section 81-1413."

Powers.

Approved March 10, 1971.

CHAPTER NO. 277.

An Act Relating to All Users of Special Fuels Including Liquid Petroleum Gases as Defined by Section 84-1831 (h), R.C.M., 1947, as Amended, Providing for the Imposition, Payment and Collection of a Tax upon the Receipt, Delivery or Placement of Liquid Petroleum Gases into the Fuel System Supply Tanks of Motor Vehicles for Use in Propulsion of Same on Public Highways within the State of Montana; Providing for the Making of a Return, and Payment of Tax by a User Thereof in Motor Vehicles for Propulsion on Public Highways within the State, Supplied to the User in a Manner and from a Supply System other than the Direct Placement by a Special Fuel Dealer into the Fuel Supply System Tank of a Motor Vehicle and Providing for Authority of the Board of Equalization of the State of Montana to Provide Forms by Which the User Can Comply with the Law and Pay the Lawful Tax Imposed upon Special Fuels; and Authority of Enforcement by the Board of Equalization and Penalties for Violation; and Amending Sections 84-1832, 84-1832.1, 84-1833 and 84-1835, R.C.M., 1947, and Providing an Effective Date.

HeinOnline -- 1971 vol. II 1184 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1832, R.C.M., 1947, as amended, is hereby amended to read as follows:

Amending clause.

"84-1832. **Tax imposed.** There is hereby levied and imposed a tax on the use of each and every gallon of special fuel in any motor vehicle while operated upon the highways, equivalent to the lawful tax levied on motor fuel under section 84-1832.1. Said tax, with respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles in this state, shall attach at the time of such delivery and shall be collected by such special fuel dealer from the special fuel user and shall be paid over to the board as hereinafter provided. Said tax, with respect to special fuel acquired by any special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle, shall attach at the time of the consumption of such fuel in the propulsion of a motor vehicle upon the highways of the state and shall be paid over to the board by the special fuel user as hereinafter provided. The various counties, incorporated cities and towns and school districts of this state shall be exempt from the levy and imposition of this tax."

Tax imposed on special fuel.

Collection.

Exemptions.

Section 2. Section 84-1832.1, R.C.M., 1947, as amended, is hereby amended to read as follows:

Amending clause.

"84-1832.1. **Tax to be collected on diesel fuel** *and liquid petroleum gas, when.* The state board of equalization shall, under the provisions of rules and regulations issued by said board, collect or cause to be collected from the owners or operators of motor vehicles a tax in an amount equal to nine cents ($.09) for each gallon of diesel fuel or other volatile liquid, of less than forty-six degrees (46°) A.P.I. (American Petroleum Institute) gravity test, *and seven cents ($.07) for each gallon of liquid petroleum gas* when actually sold or used to produce motor power to propel motor vehicles upon the public highways or streets within the state of Montana, or used in motor vehicles, motorized equipment and the internal combustion of any and all engines including stationary engines used in connection with any and all work performed under any and all contracts pertaining to the construction, reconstruction or improvement of any highway or street and their appurtenances awarded by any and all public agencies, including

Tax on diesel fuel and liquid petroleum gas.

HeinOnline -- 1971 vol. II 1185 1971

federal, state, county, municipalities, or other political subdivision."

Amending clause. Section 3. Section 84-1833, R.C.M., 1947, as amended, is hereby amended to read as follows:

License required—special fuel dealers. "84-1833. **Special fuel dealers' and special fuel users' licenses and special fuel vehicle permits.** (a) Required: It shall be unlawful for any person to act as a special fuel dealer in this state unless such person is the holder of an uncanceled fuel dealers' license issued to him by the board.

Special fuel user's license—special fuel vehicle permit. Every special fuel user shall obtain from the board, prior to the use of such special fuel for the propulsion of a motor vehicle or vehicles in this state, a special fuel users' license, and a special fuel vehicle permit for each such vehicle or vehicles operated by him upon the highways as herein defined, which permit shall at all times be carried in the vehicle for which it was issued, and shall be exhibited for inspection on request of any checking station officer, Montana highway patrol officer, any member of the state board of equalization or any authorized employee of said board, or any other law enforcement officer.

Out of state users must secure special fuel user's "courtesy" vehicle permit. *Any out of state user who operates a recreational passenger car, pickup truck or family motor coach powered by special fuels shall secure a special fuel user's "Courtesy" vehicle permit.*

Valid for 90 days. *The permit shall not be transferable and shall be valid for ninety (90) days. Permits will be issued at no cost to the user by the board of equalization, scale house personnel and gross vehicle weight patrol crews.*

Report and tax—capacity in excess of 30 gallons. *The board may require the user who has fuel capacity in excess of thirty (30) gallons to file a report and pay the tax on fuel used in Montana on which the tax has not been paid.*

Application. (b) Application: Application for a special fuel dealer's license, a special fuel user's license, or a special fuel vehicle permit shall be made to the board *unless otherwise provided herein.*

Form. (c) Form of application: The application shall be filed upon a form prepared and furnished by the board. The application shall contain such information as the board deems necessary.

Bond required. (d) Bond: *Except as herein provided,* no special fuel dealer's license or special fuel user's license shall be issued

HeinOnline -- 1971 vol. II 1186 1971

to any person or continued in force unless such person has furnished bond, as defined in section 84-1831 (i) and in such form as the board may require to secure its compliance with this act, and the payment of any and all taxes, interest and penalties due and to become due hereunder. Upon application, the board may waive the bond requirement of any *resident* special fuel user who establishes to the reasonable satisfaction of the board that *the tax as herein provided is not delinquent or that* interest or penalties are *not* accrued under the provisions of this act.

Waiver.

The total amount of the bond or bonds required of any special fuel dealer or special fuel user shall be equivalent to twice his estimated monthly tax payments as hereinafter provided, determined in such manner as said board may deem proper; provided, however, that the total amount of the bond or bonds shall never be less than five thousand dollars ($5,000) for any special fuel user awarded a contract in accordance with section 84-1932.1, nor less than five hundred dollars ($500) for any other special fuel user; and not less than one thousand dollars ($1,000) for a special fuel dealer.

Computation—amount of bond.

Minimums.

(e) Issuance: Upon receipt of the application and bond in proper form, the board shall issue to the applicant a license to act as a special fuel dealer or special fuel user or a special fuel vehicle permit; provided, however, the board may refuse to issue a special fuel dealer's license, a special fuel user's license or a special fuel vehicle permit to any person: (1) who formerly held either type of license or permit which, prior to the time of filing application has been revoked for cause; or (2) who is not the real party in interest and where the license or permit of the real party in interest has been revoked for cause prior to the time of filing such application; or (3) upon other sufficient cause being shown. Before such refusal, the board shall grant the applicant a hearing and shall grant him at least ten (10) days' written notice of the time and place thereof.

Application.

Board may refuse for cause.

Hearing after notice.

(f) Expiration of license or permit: Each special fuel dealer's license, special fuel user's license and special fuel vehicle permit shall be valid until suspended or revoked for cause or otherwise cancelled.

Validity.

(g) Assignment forbidden: No special fuel dealer's license, special fuel user's license or special fuel vehicle permit shall be transferable.

Non-transferable.

HeinOnline -- 1971 vol. II 1187 1971

Revocation for cause.

(h) Revocation, suspension, cancellation and surrender of license and permit: The board may revoke the license of any special fuel dealer or special fuel user or any special fuel vehicle permit for reasonable cause. Before revoking

Notice to show cause.

such license or permit, the board shall notify the licensee or permittee of its intention so to do, by either certified or registered mail, addressed to his last known address

Hearing.

shown in the files of the board, requiring him to appear before the board on a day and hour specified in such notice, not more than thirty (30) days nor less than ten (10) days from date of such notice, and show cause, if any he has, why the license or the permit, or each of them, should

Board may suspend.

not be revoked; provided, however, that at any time prior to and pending such hearing the board may, in the exercise of reasonable discretion, suspend such license or permit.

Surrender.

Upon revocation by the board of any such license or permit, the holder thereof shall immediately surrender the same to the board for cancellation; and the holder of any such permit, having permanently discontinued the use of any vehicle for which the permit was issued, for whatever reason, shall immediately surrender the same to the board for cancellation.

Cancellation.

The board shall cancel any license to act as a special fuel dealer or a special fuel user or any special fuel vehicle permit immediately upon surrender thereof by the holder.

Release of surety on bond.

(i) Release of surety: Any surety on a bond furnished by a special fuel dealer or special fuel user as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of thirty (30) days from the date upon which

Written request.

such surety shall have lodged with the board a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accured or which shall accrue

Notice.

before the expiration of the thirty (30) day period. The board shall promptly upon receiving any such request, notify the special fuel dealer or special fuel user who furnished the bond, and unless the special fuel dealer or special fuel user shall, on or before the expiration of the

New bond or deposit.

thirty (30) day period, file a new bond, in accordance with the requirements of this section, or make a deposit in lieu

Cancellation for noncompliance.

thereof as provided in section 84-1831 (i), the board forthwith shall cancel the special fuel dealer's or special fuel user's license.

HeinOnline -- 1971 vol. II 1188 1971

Board may require additional bond or deposit.

(j) Additional bond or deposit: The board may require a special fuel dealer or special fuel user to give a new or additional surety bond or to deposit additional securities of the character specified in section 84-1831 (i), if, in its opinion, the security of the surety bond theretofore filed by such special fuel dealer or special fuel user, or the market value of the properties deposited as security by such special fuel dealer or special fuel user, shall become impaired or inadequate; and upon failure of the special fuel dealer or special fuel user to give such new additional surety bond or to deposit additional securities within thirty (30) days after being requested so to do by the board, said board forthwith shall cancel his license.

Cancellation for noncompliance.

Special fuel taxes made lien on property.

(k) All special fuel taxes due from any dealer or user under the provisions of this act, together with all penalties and interest thereon shall be a lien upon any and all property of such holder, user or other person upon the filing by the state board of equalization of a duplicate copy of the statement so made by the state board of equalization, or a certified copy of any statement filed by said board in the office of the county clerk of the county where such property is situated which lien shall have precedence over any other claim, lien or demand thereafter filed or recorded and which may be enforced in the name of the state of Montana in the same manner as judgment liens are enforced by law."

Filing with county clerk.

Enforcement.

Amending clause.

Section 4. Section 84-1835, R.C.M., 1947, as amended, is hereby amended to read as follows:

Monthly tax return required.

"84-1835. **Returns and payments.** (a) Returns: For the purpose of determining the amount of his liability for the tax herein imposed, each special fuel dealer and each special fuel user shall file with the board, on forms prescribed by said board, a monthly tax return.

Annual application for waiver—$10 or less.

Upon annual application the board shall waive the filing of a monthly tax return of any special fuel user who establishes that such user's monthly tax liability is or will be ten dollars ($10) or less.

Annual report—forms.

Such user shall make an annual report and return to the board, on forms prescribed by said board on or before the 25th day of January of each year hereafter. Should the board determine that a user filing annual returns as herein provided is delinquent in making reports and payments, it shall require such person to file monthly returns as here-

HeinOnline -- 1971 vol. II 1189 1971

Declarations required.

in provided. Such return, *annual or monthly,* shall contain a declaration by the person making the same, to the effect that the statements contained are true and are made under penalties of perjury, which declarations shall have the same force and effect as a verification. The return shall show such information as the board may reasonably require for the proper administration and enforcement of this act; provided, however, that if a special fuel dealer or user is also a wholesale distributor of special fuel at a location where special fuel is delivered into the supply tank of a motor vehicle, and if separate storage is provided thereat from which special fuel is delivered or placed into fuel supply tanks of motor vehicles, the monthly return to the board need not include inventory control data covering bulk storage from which wholesale distribution of special fuel is made. The special fuel dealer or special fuel user shall sign the return on or before the twenty-fifth (25th) day of the next succeeding calendar month following the monthly period to which it relates; provided, however, that for good cause the board may grant a taxpayer a reasonable extension of time for filing, but not to exceed thirty (30) days.

Exceptions.

Date of filing.

Extension for 30 days.

Mailing deemed filing date.

Any claim, statement, remittance, or other document which is transmitted to this state through the United States mail, shall be deemed filed and received by this state on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. Any claim, statement, remittance or other document which is mailed but not received by this state or where received with a cancellation mark that is illegible, erroneous, or omitted, shall be deemed filed and received on the date mailed if the sender establishes by competent evidence that the claim, statement, remittance, or other document was deposited in the United States mail on or before the date due for filing. In cases of such non-receipt of a claim, statement, remittance, or other document, the sender must file with the state a duplicate within thirty (30) days after written notification is given to the sender by the state of its non-receipt of such claim, statement, remittance, or other document.

Evidence of mailing.

Duplicate filing 30 days after notice of non-receipt.

Post office record as evidence.

If any claim, statement, remittance or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Post Office of such registration, certification or certificate shall be considered competent evidence that the

HeinOnline -- 1971 vol. II 1190 1971

report, claim, tax return, statement, remittance or other document was mailed to the addressee, and the date of registration, certification or certificate shall be deemed the postmarked date.

Final filing date.

If the final filing date falls on a Saturday, Sunday or legal holiday, the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date or as provided in this chapter.

Computation of taxes.

(b) Computation: The tax imposed by this act shall be computed as follows: (1) with respect to special fuel used by the seller thereof as a special fuel dealer, by multiplying the tax rate per gallon provided in this act by the number of gallons of special fuel delivered or placed by him into the supply tank or tanks of a motor vehicle, (2) with respect to special fuel as to which the tax has not been paid to a special fuel dealer in this state and which has been consumed by the purchaser thereof as a special fuel user, by multiplying the tax rate per gallon provided in this act by the number of gallons of special fuel consumed by him in the propulsion of motor vehicles on the highways of this state.

Payments.

(c) Payments: The monthly tax return shall be accompanied by remittance covering the tax due hereunder on account of the use as defined in 84-1831 (f) of special fuels during the preceding month.

Penalties for noncompliance.

(d) Refusal or failure to file return or pay tax when due: In case of any special fuel dealer or special fuel user who refuses to file a return required by this act within the time prescribed by subsection (a) of this section, there is hereby imposed a penalty of twenty-five dollars ($25) or a sum equal to twenty-five percent (25%) of the tax due, whichever is greater, together with interest at the rate of one percent (1%) on the tax due, for each calendar month or fraction thereof during which such refusal or failure continues; provided, however, that if any such special fuel dealer or special fuel user shall establish to the satisfaction of the board that his failure to file a return within the time prescribed was due to reasonable cause, the board shall waive the penalty provided by this subsection.

Waiver.

Interest on unpaid tax.

(e) Failure to pay tax: Where a special fuel dealer or a special fuel user files a return, but fails to pay in whole or in part the tax due hereunder, there shall be added to the amount due and unpaid, interest at the rate

HeinOnline -- 1971 vol. II 1191 1971

of one percent (1%) per month or fraction thereof, from the date such tax was due to the date of payment in full thereof.

Assessment of deficiencies.

(f) Deficiency: If it be determined by the board that the tax reported by any special fuel dealer or special fuel user is deficient, it shall proceed to assess the deficiency on the basis of information available to it and there shall be added to this deficiency interest at the rate of one percent (1%) per month or fraction thereof from the date the return was due.

Interest.

If no return made —board shall determine tax liability.

(g) Determination if no return made: If any special fuel dealer or special fuel user, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax return when due, the board shall, on the basis of information available, to it, determine the tax liability of the special fuel dealer or special fuel user for the period during which no return was filed, and to the tax as thus determined, the board shall add the penalty and interest provided in subsection (d) above.

Penalty and interest.

Burden of proof.

An assessment made by the board pursuant to this subsection or to subsection (f) of this section shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be.

Penalties for fraudulent returns.

(h) Fraudulent return: If any special fuel dealer or special fuel user shall file a false or fraudulent return with intent to evade the tax imposed by this act, there shall be added to the amount of deficiency determined by the board a penalty equal to twenty-five percent (25%) of the deficiency together with interest at one percent (1%) per month, or fraction thereof, on such deficiency from the date such tax was due to the date of payment, in addition to all other penalties prescribed by law.

Assessments within 5 years.

(i) Limitation: Except in the case of a fraudulent return or of neglect, or refusal to make a return, every deficiency shall be assessed under subsection (f) above within five (5) years after the twenty-fifth day of the next succeeding calendar month following the monthly period for which the amount is proposed to be determined or within five (5) years after the return is filed, whichever period expires the later."

HeinOnline -- 1971 vol. II 1192 1971

Section 5. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 6. This act shall take effect from date of its passage and approval. Effective immediately.

Approved March 10, 1971.

CHAPTER NO. 278.

An Act Validating and Declaring Legal All Levies and Expenditures Heretofore Made and Engagements entered into by Counties, Cities or Towns for the Purposes of the Municipal Airport Act and all Elections Held in Counties, Cities or Towns for the Purpose of Creating Indebtedness for Such Purposes Wherein a Majority of the Vote Cast Was in Favor of Such Indebtedness; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. All levies and expenditures heretofore made and engagements entered into by counties, cities, or towns for the purposes contemplated by chapter 8, Title 1, R.C.M., 1947, as amended, and all elections held in counties, cities or towns for the purpose of creating indebtedness for such purposes, wherein a majority of the vote cast was in favor of such indebtedness, whether such counties, cities and towns were acting individually or jointly, under the authority of this act, are hereby validated and declared legally created, entered into and made, and all evidence of such indebtedness is declared to be a legal obligation of the county, city or town wherein such a majority vote has been cast in favor of such indebtedness. Validation of levies, expenditures, engagements and elections of counties, cities and towns.

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved March 10, 1971.

CHAPTER NO. 279.

An Act to Amend Section 26-104, R.C.M., 1947, Giving the Fish and Game Commission the Power to Regulate Motor-Driven Boats on all Public Fishing Reservoirs, Public Lakes, River and Streams.

HeinOnline -- 1971 vol. II 1193 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-104, R.C.M., 1947, is amended to read as follows:

Powers and duties of fish and game commission.

"26-104. **Powers and duties of commission.** (1) The commission hereby created shall have supervision over all the wildlife, fish, game, and nongame birds, and waterfowl, and the game, and fur-bearing animals of the state, and shall possess all powers necessary to fulfill the duties prescribed by law with respect thereto, and to bring actions in the proper courts of this state for the enforcement of the fish and game laws of the state, and the orders, rules and regulations adopted and promulgated by the commission.

Law enforcement.

(2) It shall have full power and authority to enforce all the laws of the state of Montana, respecting the protection, preservation and propagation of fish, game, and fur-bearing animals, game and nongame birds, within the state.

Expenditures.

(3) It shall have the exclusive power to expend for the protection, preservation and propagation of fish, game, and fur-bearing animals, and game and nongame birds, all funds of the state of Montana collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise, all sums collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, or from fines, damages collected for violations of the fish and game laws of this state, from appropriations, or received by the commission from any other sources are hereby appropriated to and placed under control of the Montana fish and game commission.

Discharge of employees for cause.

(4) It shall have power to discharge any appointee or employee of such commission for cause at any time.

Disposal of state property.

(5) It shall have full power and authority to dispose of all property owned by the state of Montana, used for the protection, preservation and propagation of fish, game, and fur-bearing animals, and game and nongame birds, which shall have been found to be of no further value or use to the state, and shall turn over proceeds arising therefrom to the state treasurer to be by him credited to the state fish and game fund.

Construction of fish and game facilities.

(6) It shall have full power and authority to use so much of the fish and game funds of the state as may be

HeinOnline -- 1971 vol. II 1194 1971

necessary for the construction, maintenance, operation, upkeep, and repair of fish hatcheries, game farms or other property or means and appliances for the protection and propagation of fish, game and fur-bearing animals, or game or nongame birds in the state of Montana, and it shall have the authority to appropriate moneys from the funds at its disposal for the extermination or eradication of predatory animals that destroy fish, game, or fur-bearing anmials, or game or nongame birds.

Control of predatory animals.

(7) It shall have authority to provide for the importation of game birds and game and fur-bearing animals, and for the protection, propagation, and distribution of such imported or native birds and animals.

Importation and propagation of birds and animals.

(8) It shall have authority to spend so much of the state fish and game funds as may be necessary to introduce and propagate wild waterfowl food and for that purpose may secure expert advice as to what kinds of waterfowl foods are adapted to the climate, soil, and waters of this state.

Wild waterfowl food.

(9) It shall be its duty to furnish plans for, and to direct and compel the construction and installation and repair of fish ladders upon dams and other obstructions in streams, which, however, shall be installed and maintained at the expense of the owners of said dam or other obstruction.

Fish ladders.

(10) It shall have the authority to purchase and maintain at the expense of the state fish and game fund suitable fish screens or fish wheels, or other devices, to install in irrigating ditches to prevent fish entering said ditches.

Screening irrigation ditches.

(11) It shall have authority to locate, lay out, construct and maintain nurseries and rearing ponds where fry can be planted, propagated and reared and when of suitable sizes, liberated and distributed in the waters of this state, and may expend from the state fish and game funds such sums as may be necessary for this purpose.

Fish hatcheries.

(12) It shall have authority to acquire by gift, purchase, capture, or otherwise, any fish, game, game birds, or animals, for propagation, experimental or scientific purposes.

Acquiring of fish and game.

(13) It shall have authority to acquire by purchase, condemnation, lease, agreement, gift, or devise, or to

Authority to acquire real property—purposes.

HeinOnline -- 1971 vol. II 1195 1971

acquire easements upon, lands or waters suitable for the purposes hereinafter enumerated, and develop, operate and maintain the same for said purposes: (a) For fish hatcheries, nursery ponds, or game farms; (b) Lands or waters suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection; (c) For public hunting, fishing, or trapping areas to provide places where the public may hunt, trap, or fish in accordance with the provisions of law or the regulations of the commission; (d) To extend and consolidate by exchange lands or waters suitable for the above purposes; (e) To capture, propagate, transport, buy, sell, or exchange any species of game, bird, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes, or to exercise control measures of undesirable species. It shall further have full authority to dispose of lands and waters acquired by it on such terms after such public notice, and without regard to other laws of this state which provide for sale or disposal of state lands, and with or without reservation, as it deems necessary and advisable, provided that notice of sale describing the lands or waters to be disposed of shall be published once a week for three (3) successive weeks in a newspaper with general circulation printed and published in the county wherein the lands or waters are situated, or if no newspaper be printed and published in such county then in any newspaper with general circulation in such county, advertising for cash bids to be presented to the commission or its director within thirty (30) days from the date of the first publication, each bid to be accompanied by a cashiers check or cash deposit in an amount equal to ten percent (10%) of the amount bid; the highest bid shall be accepted upon payment of the balance due within ten (10) days after mailing notice by registered mail to the highest bidder; if such bidder shall default on payment of the balance due, then the next highest bidders shall be similarly notified in succession until a sale is completed; thereupon deposits shall be returned to the unsuccessful bidders except bidders defaulting after notification; the commission shall reserve the right to reject any or all bids which do not equal or exceed the full market value of such lands and waters as determined by the commission; the commission shall convey such lands and waters by deed without covenants of warranty, executed by the governor, or in his

Disposal of lands and waters.

Publication—notice of sale.

Cash bids.

Acceptance of bids.

Right to reject bids.

Conveyances.

HeinOnline -- 1971 vol. II 1196 1971

absence or disability by the lieutenant governor, attested by the secretary of state, and further countersigned by the chairman of the state fish and game commission, attested by the secretary of the commission, and have the great seal of the state of Montana and the seal of the state fish and game commission thereto affixed, but need not be acknowledged.

Seals.

(14) It shall have authority to enter into cooperative agreements with educational institutions and state, federal, or other agencies, to promote wildlife research and to train men for wildlife management. It shall have authority to enter into cooperative agreements with federal agencies, municipalities, corporations, organized groups of landowners, associations and individuals for the development of game, bird, fish, or fur-bearing animal management and demonstration projects.

Cooperative agreements.

(15) It shall have authority to fix seasons, bag limits, possession limits and season limits; to open or close, shorten or lengthen seasons on any species of game, bird, fish or fur-bearing animal as defined by section 26-201, and to declare areas open to the hunting of deer, antelope and elk by bow and arrow permit holders, and during times when only bow and arrows may be used, to hunt deer, antelope and elk in such areas; it is authorized to declare areas open to deer hunting where shotguns only may be used to hunt or kill deer; and it is authorized to declare areas which may be open to special license holders only, and issue special licenses in a limited number when it shall determine, after proper investigation, that such a season is necessary to assure the maintenance of an adequate supply of game birds, fish or animals, or fur-bearing animals, or to declare such a special season and issue special licenses whenever game birds or animals or fur-bearing animals are causing damage to private property, or when written complaint of such damage has been filed with the state fish and game commission by the owner of such property, and in determining to whom such licenses shall be issued, it may, when more applications are received than the number of animals to be killed, award permits to those chosen under a drawing system; provided, however, that all drawings for elk permits shall be held in the city or town which has suitable accommodations for the persons who will attend the drawing nearest to the area to be hunted but in no

Authority to fix fishing and hunting seasons.

Special licenses.

License drawing systems.

HeinOnline -- 1971 vol. II 1197 1971

case shall the drawing be held in a city or town more distant than the county seat nearest to the area to be hunted.

Fish and game refuges.

(16) It shall have authority to establish and close to hunting, trapping or fishing, game, bird or fish refuges on public lands and, with the consent of the owner, on private lands; and close streams and lakes, or parts thereof, to hunting, trapping or fishing.

Fish and game districts.

(17) It shall have authority to divide the state into fish and game districts, and to create fish, game, or fur-bearing animal districts throughout the state of Montana and to declare closed season for hunting, fishing, or trapping in any of said districts, so created, and later to open said districts to hunting, fishing, or trapping.

Closed seasons.

(18) It shall have authority to declare a closed season on any species of game, fish, or game birds, or fur-bearing animals threatened with undue depletion, from any cause, and to close any area or district of any stream, public lake, or public water, or portions thereof, to hunting, trapping or fishing, for limited periods of time, when such action is necessary to protect recently stocked area, district, water, spawning waters, spawn-taking waters, or spawn-taking stations, or to prevent the undue depletion of fish, game and fur-bearing animals and game and nongame birds, and later to open the same upon consent of a majority of the property owners affected.

Game refuges.

(19) It shall have authority to establish game refuges for the purpose of providing safe sanctuaries in which game and fur-bearing animals or game or nongame birds may breed and replenish. Such refuges shall be established by order of the commission upon the petition and proper showing that such action is, in judgment of the fish and game commission, necessary and in the best interest of the wildlife within the area, to be included within such refuge, it being the purpose of this provision to establish small refuges rather than large preserves or rather than to close large areas to hunting or trapping.

Protection of migratory birds.

(20) It shall have authority to designate and protect certain areas as resting, feeding and breeding grounds for migratory birds, in which hunting and molestation shall be forbidden; it being the purpose of this provision not to interfere unduly with the hunting or waterfowl,

HeinOnline -- 1971 vol. II 1198 1971

but to provide havens in which they can rest, feed, and breed without molestation.

Petition for game refuge.

(21) After petition has been duly filed with the secretary of the commission, praying that an area shall be set aside as a game refuge or haven, the said secretary shall immediately publish a notice in a paper of general circulation in the county in which said area is proposed, that a hearing in connection therewith will be held at such place in said county as may be designated on a day not less than fifteen (15) days from the date of the first publication to be specified in said notice, at which time and place all interested parties shall have the right to appear and be heard.

Publication of notice.

Hearing.

Educational and biological department.

(22) It shall have authority to establish and maintain an educational and biological department of their work for the collection and diffusion of such statistics and information as shall be germane to the purpose of this act.

Restrictions on firearm permits.

(23) It shall not have authority to issue permits to anyone to carry firearms within the confines of the state of Montana, except to regularly appointed officers and/or fish and game wardens who are paid by the state of Montana.

Fishing waters for juveniles.

(24) It shall have authority to declare certain fishing waters within the state of Montana closed to fishing by all persons, excepting therefrom that class of persons whose ages are twelve (12) years or less; it being the purpose of this section to provide suitable fishing waters for the exclusive use and enjoyment of juveniles of the age of twelve (12) years or less, at such times and in such areas as the state fish and game commission shall in its discretion deem advisable and consistent with its policies relating to fishing in the state of Montana.

Uses of lands.

(25) It shall have authority to promulgate and enforce rules and regulations governing uses of lands acquired, or held under easement, by the commission, or lands which it operates under agreement with or in conjunction with a federal or state agency or private owner. Such rules shall be promulgated in the interest of public health, public safety and protection of property in regulating the use of these lands. Provided further all lease and easement agreements shall itemize uses as listed in subparagraph 13 of this section.

HeinOnline -- 1971 vol. II 1199 1971

Recreational uses of public waters.

(26) It shall have authority to promulgate and enforce rules and regulations governing recreational uses of *all* public fishing reservoirs, *public* lakes, *rivers and streams* or on reservoirs and lakes which it operates under agreement with or in conjunction with a federal or state agency or private owner.

Such rules shall be promulgated in the interest of public health, public safety and protection of property in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, *the operation of motor-driven boats,* water skiing, surfboarding, picnicking, camping, sanitation and use of firearms on such reservoirs, *lakes, rivers and streams,* or at designated areas along the shore of such reservoirs, *lakes rivers and streams.* These rules shall be subject to review and approval by the state board of health as to public health and sanitation before becoming effective. Copies of such rules shall show such endorsement."

Operation of boats.

Firearms.

Review by state board of health.

Approved March 10, 1971

CHAPTER NO. 280

An Act to Amend Section 11-2201, R.C.M. 1947, to Provide That City or Town Councils May Levy and Assess Costs of Installing and Maintaining Street Lighting Along Certain Streets or Public Highways Upon Properties not Within the City Limits.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 11-2201, R.C.M. 1947, is amended to read as follows:

"11-2201. **Special improvements—powers of city council.** All streets, alleys, places, or courts in the municipalities of this state, now open or dedicated, or which may hereafter be opened or dedicated to public use, shall be deemed and held to be open public streets, alleys, places, or courts, for the purposes of this chapter, and the city council of each municipality is hereby empowered to establish and change the grades of said streets, alleys, places, or courts, and fix the width thereof, and is hereby invested with jurisdiction to acquire private property for right-of-way, and to order to be done any of the

Open or dedicated streets and alleys deemed public.

Powers of city council.

HeinOnline -- 1971 vol. II 1200 1971

work mentioned in this chapter under the proceedings hereinafter described.

Pedestrian malls.

Further, that in addition to the powers heretofore granted, when the public interest or convenience requires, the governing body of a municipality may:

(1) Establish pedestrian malls.

(2) Prohibit, in whole or in part, vehicular traffic on a pedestrian mall.

(3) Pay, from general funds of the municipality or other available moneys or from the proceeds of assessments levied on lands benefited by the establishment of a pedestrian mall, the damages, if any, allowed or awarded to any property owner by reason of the establishment of a pedestrian mall, provided that the resolution of intention contains a statement that an assessment will be levied to pay the whole or a stated portion of such damages, if any, allowed or awarded to any property owner by reason of the establishment of such pedestrian mall.

Mall improvements.

(4) Construct on public streets which have been or will be established as a pedestrian mall improvements of any kind or nature necessary or convenient to the operation of such streets as a pedestrian mall, including but not limited to paving, sidewalks, curbs, sewers, covered walkways or areas, air conditioning, drainage works, street lighting facilities, fire protection facilities, flood protection facilities, water distribution facilities, vehicular parking areas, retaining walls, landscaping, tree planting, statuary, fountains, decorative structures, benches, restrooms, child care facilities, display facilities, information booths, public assembly facilities, and other structures, works or improvements necessary or convenient to serve members of the public using such pedestrian mall including the reconstruction or relocation of existing municipally owned works, improvements or facilities on such streets. Such improvements or structures may be attached to abutting private buildings or structures, provided that such improvements or structures shall be located on public property.

Improvement districts for malls and parking.

(a) It is further provided that in addition to the purposes for which an improvement district may be formed, as heretofore set forth, an improvement district

HeinOnline -- 1971 vol. II 1201 1971

may be formed for the sole purpose of the operation, maintenance, repair and improvements of pedestrian malls, off-street parking facilities, and parkings and parkways.

Procedures.

(b) Subject to the powers granted and the limitations contained in this section, the powers and duties of the municipality and the procedure to be followed shall be as provided in this article for other types of special improvement districts.

Petition.

(c) If a petition for the formation of an improvement district under the provisions of this section is presented to the governing body purporting to be signed by all of the real property owners in the proposed district, exclusive of mortgagees and other lien holders, the governing body, after verifying such ownership and making a finding of such fact, shall adopt a resolution of intention to order the improvement pursuant to the provisions of section 11-2204, and shall have immediate jurisdiction to adopt the resolution ordering the improvement pursuant to the following provisions, without the necessity of the publication and posting of the resolution of intention provided for in section 11-2204.

Resolution.

Annual expenses.

(d) The governing body shall make annual statements and estimates of the expenses of the district, which shall be provided for by the levy and collection of ad valorem taxes upon the assessed value of all the real and personal property in the district, shall publish notice thereof, shall have hearings thereon and adopt them at the times and in the manners provided for incorporated cities and towns by the applicable portions of sections 11-2204 and 11-2206. The governing body, on or before the second Monday in August of each year, shall fix, levy and assess the amount to be raised by ad valorem taxes upon all of the property of the district. All statutes providing for the levy and collection of state and county taxes, including the collection of delinquent taxes and sale of property for nonpayment of taxes shall be applicable to the district taxes provided for under this section.

Levy—ad valorem taxes.
Notices.
Hearings.

Assessment—second Monday in August.

Levy and collection.

Methods of financing.

(e) An improvement district formed for the purpose of establishing a pedestrian mall or off-street parking may be financed in accordance with the provisions of section 11-2214, R.C.M. 1947, and/or in accordance with the methods of financing set forth for the construction of water or sewer systems as set forth in section 11-2218, R.C.M. 1947.

HeinOnline -- 1971 vol. II 1202 1971

(5) Create special lighting districts on any street or streets or public highway therein or portions thereof for the purposes of lighting such street or streets or public highway and is hereby empowered to assess such costs for installation and maintenance to property abutting thereto and to collect such costs by special assessment against said property.

Special lighting districts.

Assessment of costs.

Further, that in addition to the powers heretofore granted, the city or town council is empowered to make assessments in the manner provided in section 11-2245 hereafter on property abutting said street or highway and lying outside the boundaries of said city or town, so long as that portion of the street or public highway to be lighted is adjacent to the boundary line of said city or town or lies partially within said city or town or extends from one point within said city or town to another point within said city or town."

Additional assessments.

Approved March 10, 1971.

CHAPTER NO. 281

An Act to Amend Sections 35-128 and 35-129, R.C.M. 1947, Relating to Housing Authorities; Further Defining the Area of Operation of County Housing Authorities, and Clarifying the Power of County Housing Authorities to Undertake Housing Projects and to Contract with the Federal Government upon the Approval of the Board of County Commissioners; and to Provide an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 35-128, R.C.M. 1947, is amended to read as follows:

Amending clause.

"35-128. **Notice, hearing and creation of authority for a county.** (1) Any twenty-five (25) residents of a county may file a petition with the county clerk setting forth that there is a need for an authority to function in the county. Upon the filing of such a petition the county clerk shall give notice of the time, place and purposes of a public hearing at which the board of county commissioners will determine the need for an authority in the county. Such notice shall be given at the county's

Petition of need for housing authority.

Notice.

Publication.

HeinOnline -- 1971 vol. II 1203 1971

expense by publishing a notice, at least ten (10) days preceding the day on which the hearing is to be held, in a newspaper having a general circulation in the county or, if there be no such newspaper, by posting such a notice in at least three (3) public places within the county, at least ten (10) days preceding the day on which the hearing is to be held.

Posting.

Hearing.

(2) Upon the date fixed for said hearing held upon notice as provided herein, an opportunity to be heard shall be granted to all residents and taxpayers of the county and to all other interested persons. After such a hearing, the board of county commissioners shall determine (1) whether unsanitary or unsafe inhabited dwelling accommodations exist in the county, and/or (2) whether there is a lack of safe or sanitary dwelling accommodations in the county available for all the inhabitants thereof. In determining whether dwelling accommodations are unsafe or unsanitary, the board of county commissioners shall take into consideration the following: the physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

Determinations by board.

Considerations.

(3) If it shall determine that either or both of the above enumerated conditions exist, the board of county commissioners shall adopt a resolution so finding (which need not go into any detail other than the mere finding) and shall thereupon appoint, as hereinafter provided, five (5) commissioners to act as an authority. Said authority shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

Resolution.

Appointment of five commissioners.

(4) The commissioners of the authority shall present to the secretary of state an application signed by them which shall set forth (without any detail other than the mere recital) (1) that a notice has been given and public hearing has been held as aforesaid, that the board of county commissioners made the aforesaid determination after such hearing and appointed them as commissioners; (2) the name, and official residence of each of the commissioners, together with a certified copy of the appoint-

Application to secretary of state.

Requirements.

HeinOnline -- 1971 vol. II 1204 1971

ment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this act; (3) the term of office of each of the commissioners; (4) the name which is proposed for the corporation; and (5) the location of the principal office of the proposed corporation. The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the state to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The secretary of state shall examine the application and if he finds that the named proposed for the corporation is not identical with that of a person or of any other corporation of this state or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office.

Determination and filing.

(5) When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the secretary of state shall make and issue to the said commissioners, a certificate of incorporation pursuant to this act, under the seal of the state, and shall record the same with the application.

Certificate of incorporation.

(6) The area of operation of such authority shall include said county, but in no event shall it include any city *unless a resolution shall have been adopted by the governing body of the city (and by any authority which shall have been theretofore established and authorized to exercise its powers in the city) declaring that there is need for the county authority to exercise its powers within that city; provided, however, that such resolution shall not be effective until it has been approved by a majority vote of the electors within the corporate limits of such city or town voting either at a special or general election. If, after the adoption of such resolution or resolutions, an authority is established for any city within the county, the county authority shall have no power to initiate any further housing projects within such city without the consent, by resolution, of the governing body thereof and of the authority established for such city.*

Area of operation.

Resolution to include city.

Approval—special or general election.

Limitation on county authority.

HeinOnline -- 1971 vol. II 1205 1971

Resolution denying petition.

If the board of county commissioners, after a hearing as aforesaid, shall determine that neither of the above enumerated conditions exist, it shall adopt a resolution denying the petition. After three (3) months shall have expired from the date of the denial of any such petitions, subsequent petitions may be filed as aforesaid and new hearings and determinations made thereon.

Conclusive evidence.

(7) In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this act upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate, duly certified by the secretary of state, shall be admissable in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof."

Amending clause.

Section 2. Section 35-129, R.C.M. 1947, is amended to read as follows:

Appointment and removal of commissioners.

"35-129. **Commissioners and powers of authority for a county.** The commissioners of a housing authority created for a county may be appointed and removed by the board of county commissioners of the county in the same manner as the commissioners of a housing authority created for a city may be appointed and removed by the mayor, and except as otherwise provided herein, each housing authority created for a county and the commissioners thereof shall have the same functions, rights, powers, duties and limitations provided for housing authorities created for cities and the commissioners of such housing authorities; provided, that for such purposes the term "mayor" or "council" as used in the housing authorities law and any amendments thereto shall be construed as meaning "board of county commissioners", the term "city clerk" as used therein shall be construed as meaning "county clerk", the term "city" as used therein shall be construed as meaning "county" *and the term "ordinance" shall be construed as meaning "resolution"* unless a different meaning clearly appears from the context*; and provided further, that the last paragraph of section 35-109 shall not be applicable to any action taken with respect to any housing project undertaken by a county housing authority outside the city limits.*"

Functions of housing authority.

"Mayor" or "council" defined.

"City clerk."

"City."

"Ordinance."

Exception.

HeinOnline -- 1971 vol. II 1206 1971

Section 3. This act is effective on passage and approval. Effective immediately.

Approved March 10, 1971.

CHAPTER NO. 282

An Act Amending Section 75-7810, R.C.M., 1947, by Requiring the Home Counties of Mentally and Physically Handicapped Children to Pay Tuition to Local School Districts Where Such Children Attend Regardless of Whether Such Children are Residing at a State Institution and Shall Include Transportation Payments.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-7810, R.C.M., 1947, is amended to read as follows: Amending clause.

"75-7810. **No tuition when attending a state institution.** When a child is attending an institution supported solely by funds of the state of Montana, the resident district or county shall not be required to pay tuition *to the state institution* for such child, *but whenever at the recommendation of institution officials such child attends classes conducted by a school within a local district, the district wherein the parents or guardian of the child maintain legal residence shall pay tuition to the district or county operating the school in accordance with the provisions of section 75-7201 or section 75-7808, whichever section applies to the circumstances of the child. Transportation payments shall be made for students enrolled in such classes or receiving training at the state institution. The schedule of transportation payments shall be approved in accordance with existing special education transportation payment schedules and shall be approved by the county transportation committee and the superintendent of public instruction.*" No tuition payments required for child attending state institution. District of residence shall pay tuition for child attending school in another district. Transportation payments. Approval.

Approved March 10, 1971

CHAPTER NO. 283

An Act to Amend Section 32-2605, R.C.M., 1947, to Provide for Payment of Judgments Obtained by Construction Contractors, and the Apportionment Thereof to

HeinOnline -- 1971 vol. II 1207 1971

State Highway Construction Funds and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-2605, R.C.M., 1947, is hereby amended to read as follows:

Highway commission shall apportion funds annually.

"Section 32-2605. **Apportionment of state construction funds.** Annually, beginning July 1, 1965, and at the beginning of each fiscal year thereafter, the commission shall apportion available state construction funds to the various federal-aid highway systems as may be required to match the amounts of federal aid available for expenditure on each respective system, *provided that the state's share of the cost of final judgments in court awards made to construction contractors on state highway construction projects during the previous fiscal year may be deducted from funds available prior to the apportionments provided in this section and such cost shall be credited to the accounts of the highway system, financial district, county or urban city involved as an offset to the charges made to such accounts as a result of such final judgment. Said deductions may be made only when the amount of such judgments would prohibit or seriously impair the highway construction program in a financial district, county or urban city.*"

Deduction of court awards prior to apportionment.

Costs credited to proper account.

Limitations.

Effective immediately.

Section 2. This act is effective on passage and approval.

Approved March 11, 1971

CHAPTER NO. 284.

An Act Establishing that the Use of Certain Whole Blood, Plasma, Blood Products, and Blood Derivatives by Physicians and Hospitals for the Purpose of Injecting or Transfusing Any of Them into the Human Body is a Service and Not a Sale; Providing that Blood Banks Shall not be Liable for Such Products Disbursed by Them in the Absence of Negligence if Such Products Have Been Tested by Certain Testing Procedures and Found by Such Tests to Not Be Dangerous to the Health of a Prospective Recipient, and Requiring the Labeling by Such Blood Banks of Such Products Sold.

HeinOnline -- 1971 vol. II 1208 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Injection or transfusion of blood into human body declared service and not sale.

Section 1. The furnishing of, and the injecting or transfusing into the human body, of whole blood, plasma, blood products, and blood derivatives, by a hospital or doctor, of any such substances, obtained by such hospital or doctor so furnishing, injecting or transfusing the same, from any source or sources which said hospital or doctor is not directly or indirectly financially interested in, or has any control over, is hereby declared not to be a sale of such whole blood, plasma, blood products, or blood derivatives for any purpose or purposes, and no physician or hospital may be held liable, in the absence of fault or negligence on the part of such a hospital or doctor for injuries resulting from the furnishing or performing of such services.

Limitation on liability—physician or hospital.

Limitation on liability—blood bank.

Section 2. No blood bank may be held liable in the absence of fault or negligence for injuries resulting from the injecting or transfusing of whole blood, plasma, blood products, or blood derivatives supplied by any such blood bank to any hospital or physician if such blood products so furnished have been tested by the latest testing procedures in accordance with recommendations of the American association of blood banks and by such test is not found to be dangerous to the health of the recipient of such blood products.

Testing procedures.

Package requirements.

Section 3. That each container or package containing any whole blood, plasma, blood products, and blood derivatives, sold by a blood bank shall have plainly stamped or printed thereon the fact that the product therein contained was tested as required in section 2 hereof, giving the date of the test and such information as is necessary to designate the type of test made.

Approved March 11, 1971

CHAPTER NO. 285

An Act to Provide That All Salaries of Members of the Highway Patrol Be Paid Out of Funds of the Highway Department.

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Be it enacted by the Legislative Assembly of the State of Montana:

Salaries—highway patrol.

Section 1. All salaries of members of the highway patrol shall be paid out of the earmarked revenue fund of the highway department.

Approved March 11, 1971

CHAPTER NO. 286

An Act Amending Section 75-8601, R.C.M., 1947, Relating to Waiver of Nonresident Tuition for Students.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-8601, R.C.M., 1947, is amended to read as follows:

Except in law and medicine tuition free to resident students.

"75-8601. **Charges for tuition — waiver of nonresident fees.** (1) Except in the law and medicine departments and for extra studies, tuition shall ever be free to all students who shall have been residents of the state for not less than one year next preceding their admission to any unit of the Montana *university system.*

(2) The regents may:

Tuition rates for law or extra studies.

(a) prescribe tuition rates for students enrolled in the law school or for extra studies, and for nonresident students; and

Waiver—nonresident tuition.

(b) waive at its discretion, nonresident tuition for selected and approved nonresident students not to exceed at any unit two percent (2%) of the *full time equivalent enrollment* at that unit *during the preceding year.*

Resident priority.

(3) No nonresident student may be admitted to the exclusion of any resident student."

Approved March 11, 1971

CHAPTER NO. 287

An Act to Amend Section 66-905, R.C.M., 1947, Relating to the Admission of Dentists to Practice in the State.

HeinOnline -- 1971 vol. II 1210 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-905, R.C.M., 1947, is amended to read as follows: Amending clause.

"66-905. **Dentistry examinations — application — contents — fees — undergraduate examination — regulations for examinations — notice — scope of examination — dentist certificates — fee — form — retention and inspection of examination papers.** (1) Any person desiring to commence the practice of dentistry in the state of Montana after this act takes effect, shall file in his full name, an application for examination, with the secretary-treasurer of the state board of dental examiners at least twenty (20) days before the date set by the board for the commencement of such examination, and at the time of making such application the applicant shall (a) pay to the secretary-treasurer of the board a fee of fifty dollars ($50), (b) shall furnish the board with at least three (3) satisfactory affidavits of good moral character, (c) shall present to said board his diploma or satisfactory evidence of having graduated from a recognized dental school or college, which must have been approved by said board, and (d) shall furnish the board a recent photograph of the applicant.

Application—examination to practice dentistry.

20 days prior.

$50 fee.

Requirements.

(2) The board may, in its discretion, permit any dental student who shall have successfully completed his junior year in a recognized dental school, and who files proof satisfactory to the board that he has the preliminary education in this section described, to take written examination in such subjects as he has completed, and all satisfactory grades there secured shall be credited upon the final examination of such student. The board shall require a fee of fifty dollars ($50) for such examination, which fee shall apply on the final examination to be taken by such applicant.

Dental student completing junior year may take examination.

$50 fee.

(3) The board shall adopt a uniform code of rules and regulations within the limitations of this act, governing the matter of examinations for license to practice dentistry in the state of Montana, which examinations shall be open to any applicant meeting the requirements of this act, and shall also provide in such code for giving reasonable notice of the time and place where examinations shall be held. An examination shall be held at least once a year.

Uniform code of rules.

HeinOnline -- 1971 vol. II 1211 1971

Examination requirements.

(4) The examination hereinabove referred to shall be practical in character and sufficiently thorough to test the fitness of the applicant to practice dentistry.. It shall include, written in the English language, questions on anatomy, histology, phsiology, chemistry, pharmacology and therapeutics, metallurgy, pathology, bacteriology, anesthesia, operative and surgical dentistry, prosthetic dentistry, prophylaxis, orthodontics and endodontics, and any additional subjects pertaining to dental service. Said written examination may be supplemented by oral examinations. Demonstrations of the applicant's skill in operative and prosthetic dentistry shall also be required. Said examination shall be conducted under oath or affirmation before said board, and any member of said board is empowered to administer the necessary oath or affirmation. The state board of dental examiners may recognize a certificate granted by the national board of dental examiners in lieu of or subject to such examinations as the state board may require.

Oral examinations—demonstrations.

Oath.

Certificate of national board.

Registration as licensed dentists $15 fee.

(5) All applicants successfully passing such examination shall be registered as licensed dentists in the board register and, upon payment of an additional fifteen dollars ($15) shall receive a certificate signed by the president, secretary, and other members of said board, in substantially the following form, to wit:

Form of certificate.

"This is to certify that ..... is hereby licensed to practice dentistry in the state of Montana. This certificate must be filed for registration in the office of the county clerk of any county in which the dentist holding such certificate desires to practice, and it is unlawful for him to practice dentistry in any county in which said certificate is not filed for registration.

Dated at ..... this ..... day of ....., 19....."

Examination papers—disposition.

Examination papers of any applicant shall be retained two (2) years by the secretary-treasurer of the board and may then be destroyed, and while so retained shall be open to inspection only by board members, the applicant or by some person appointed by such applicant to examine same, or by a court of competent jurisdiction in a proceeding where the question of the contents of such paper or papers is properly involved.

HeinOnline -- 1971 vol. II 1212 1971

(6) Any applicant failing to pass his first examination before the board may, at any subsequent meeting of said board held for the purpose of examining candidates, if otherwise qualified, take subsequent examinations upon payment of the fee of twenty-five dollars ($25) for each such examination.'' Subsequent examination. $25 fee.

Approved March 11, 1971

CHAPTER NO. 288

An Act to Amend Section 31-135, R.C.M., 1947, Increasing the Life of a Driver's License from Two to Four Years; and Providing a Renewal Provision.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 31-135, R.C.M., 1947, is amended to read as follows:

"31-135. **Licenses issued to operators and chauffeurs** — *renewals and expiration thereof.* (a) The highway patrol board shall have authority to appoint county treasurers and other qualified officers to act as its agent or agents for the sale of drivers' licenses, and shall make necessary rules and regulations governing such sales. The board, upon payment of *the fees specified in this act,* (of which sum five percent (5%) shall be retained by the county treasurers for use of the county general fund) shall issue to every applicant qualifying therefor, an operator's or chauffeur's license as applied for, and *such licenses* shall contain a photograph of such licensee in such size and form as may be prescribed by the highway patrol board, a distinguishing number issued to the licensee, the full name, date of birth, resident address, and a brief description of the licensee and either a facsimile of the signature of the licensee or a space upon which he shall write his signature in pen and ink, immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee. Highway patrol board—sale of drivers' licenses. Operator's or chauffeur's licenses.

(b) The board shall, when any person applies for renewal of an operator's or chauffeur's license, test the applicant's eyesight, and may also, in the board's discretion, have such applicant demonstrate his physical ability to operate and to exercise ordinary and reasonable care in Renewal test.

HeinOnline -- 1971 vol. II 1213 1971

Renewal application.

the operation of a motor vehicle. *A person shall be deemed to have applied for renewal of a Montana operator's or chauffeur's license if such application is made within three (3) months of the expiration of such license.*

Expiration.

(c) Licenses issued shall expire on the anniversary of the date of birth of the licensee four (4) years or less after the date of issue. Notwithstanding the foregoing provisions, the highway patrol board shall stagger initial license terms for the purpose of equalizing annual issuance of licenses and shall collect license fees proportionate to the term of such licenses.

"Provisional license"—person under 21.

(d) Whenever the board issues an original license to a person under the age of twenty-one (21) years, such license shall be designated and clearly marked as a "provisional license." Any license so designated and marked

Suspension.

may be suspended by the board for a period of not more than twelve (12) months, when its record discloses that the licensee, subsequent to the issuance of such license, has

Board may designate for cause.

been guilty of careless or negligent driving. Upon renewal as applicable to operator's licenses, the board may for any reasonable cause, as shown by its records, designate the renewal of the license as provisional, otherwise, a license in usual form shall be issued subject to other provisions of the laws of Montana.

More than one license prohibited.

(e) It shall be unlawful for any person to have in his possession or under his control, more than one (1) Montana operator's or chauffeur's license at any one time.

Fees.

(f) Driver license fees. Fees for driver license shall be as follows:

1. Driver's license — two dollars ($2) per year or fraction thereof."

Approved March 11, 1971

CHAPTER NO. 289

An Act to Amend Section 75-8427, R.C.M., 1947, by Deleting Unnecessary Language.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-8427, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1214 1971

"75-8427. **Acceptance of public lands.** (1) The regents shall receive in the names of western Montana college and eastern Montana college, all benefits derived from the distribution of lands contemplated in section 17 of an act of Congress, approved February 22, 1889 entitled "An act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and state governments and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states."

Regents shall receive benefits from land grants for western Montana college and eastern Montana college.

(2) The regents may in carrying out the provisions of title 75, R.C.M., 1947, pledge one-half (½) of all interest and income derived from said land grant for the payment in whole or in part of notes, bonds or other obligations issued by the regents for residence halls or other facilities at western Montana college or at eastern Montana college, provided that:

May pledge one-half of interest and income.

(a) any such pledge shall be subject to any prior pledge; and

Priority.

(b) all pledges of income and interest must have the final approval of the state board of examiners."

Approval.

Approved March 11, 1971

CHAPTER NO. 290

An Act Amending Sections 16-4801, 16-4803, 16-4804 and 16-4805, R.C.M., 1947, Removing the County Clerk as the Clerk of the Park Board; Providing for the Employment of a Secretary and/or Superintendent to Provide for the Disbursement of Funds; Relating to the Validity of Claims to Be Paid; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-4801, R.C.M., 1947, is amended to read as follows:

Amending clause.

"16-4801. **County board of park commissioners — qualifications and terms of commissioners — meetings — officers of board — accounts and records.** There may be created in all counties a board of park commissioners,

Counties may create board of park commissioners.

HeinOnline -- 1971 vol. II 1215 1971

which shall be composed of the county commissioners and six (6) other persons appointed by county commissioners. The six (6) persons and three (3) commissioners so to be appointed shall have the same qualifications for the office of park commissioners as are required by section 11-710, R.C.M., 1947, for the office of county commissioners. The term of office of each park commissioner shall be three (3) years with and after the first Monday of May of the year in which he is appointed, and until his successor is appointed and qualified, save and except that two (2) of the commissioners first appointed shall hold office for the period of one (1) year, two (2) for two (2) years, and two (2) for three (3) years, with and after the first Monday of May, 1967, and until their successors are appointed and qualified. Such board of park commissioners shall constitute a department of the county government with the powers in this act provided. Before entering upon the discharge of his duties, each park commissioner shall take and subscribe to the oath provided by section 59-413, which oath shall be filed in the office of the county clerk and recorder.

Qualifications.

Terms of office.

Powers.

Oath.

Meetings.

On the first Monday of May in each year, said board of park commissioners shall meet and organize by electing one (1) of their number president, and one (1) of their number vice-president, who shall hold their offices respectively for the term of one (1) year. The president, and in his absence, the vice-president, shall preside at all meetings of the board, and shall countersign all warrants issued by the board."

Amending clause.

Section 2. Section 16-4803, R.C.M., 1947, is amended to read as follows:

"16-4803. **Receipt and disbursement of park funds — separate fund in treasury — liability of county restricted.** All moneys paid out by the park commissioners under the provisions of this act shall be by warrant drawn upon the county treasurer, which *may be signed by the secretary and countersigned by the president, or, in his absence, by the vice-president of the board of park commissioners, or, upon approval by a majority of the members of the board of park commissioners at a regular meeting of the board at which a quorum are in attendance and voting, and with due notice and report being made to the board of county commissioners, payments so authorized may be made by*

Expenditures by warrant.

Signing.

Majority approval.

HeinOnline -- 1971 vol. II 1216 1971

warrant drawn upon the county treasurer signed by the chairman of the board of county commissioners and countersigned by the county clerk and recorder. All moneys raised by tax for park purposes, or received by the board of park commissioners for the sale of hay, trees, plants, or from the use of or leasing of lands and facilities shall be paid into the county treasury, and the county treasurer shall keep all such moneys in a separate fund to be known as the "park fund." Such board shall have no power to incur liability on behalf of the county in excess of moneys on hand in, or taxes actually levied for, said park fund." Park fund.

Section 3. Section 16-4804, R.C.M., 1947, is amended to read as follows: Amending clause.

"16-4804. **Meetings of park commissioners — compensation of commissioners — contracts of board — failure of commissioner to qualify or perform.** The board of park commissioners shall hold an annual meeting on the first Monday of May, and a meeting at least once in each month in each year, at such times at the board shall by rule prescribe. Special meetings may also be held at the call of the president, or, in his absence, the vice-president, upon giving to each member of said board at least twenty-four (24) hours' notice in writing of the time and place of holding such meeting. A member of the board by his appearance at a special meeting shall waive the requirement of written notice. A majority of the entire board shall be necessary to constitute a quorum for the transaction of the business of said board. No park commissioner shall receive compensation for his services rendered under the provisions of this act, but the actual and necessary expense incurred by any member of the board while acting under the orders of the board in the transaction of any business in its behalf may be paid upon being allowed and audited by the board. No park commissioner, directly or indirectly, shall be interested in, or benefit by, any contract made by the board or by its authority, or in the furnishing of any supplies for the use of the board. Any park commissioner who shall refuse or neglect, for the period of three (3) consecutive months, to attend the meetings of said board without leave of absence from said board, or who shall fail for the period of twenty (20) days from and after his appointment to qualify as in this act provided, shall be deemed to have vacated his office, and thereupon his successor may be appointed.

Meetings.

Special meetings.

Notice.

Waiver.

Quorum.

Expenses.

Conflicts of interest prohibited.

Failure to attend meetings.

HeinOnline -- 1971 vol. II 1217 1971

Signing of contracts.

All contracts made by said board shall be in the name of the county, and shall be signed by the *president, or, in his absence, by the vice-president, of said board, or, upon*

Majority approval.

approval by a majority of the members of the board of park commissioners at a regular meeting of the board at which a quorum are in attendance and voting, and with due notice and report being made to the board of county commissioners, such contracts may be signed by the chairman of the board of county commissioners and attested by the county clerk and recorder.''

Amending clause.

Section .4 Section 16-4805, R.C.M., 1947, is amended to read as follows:

"16-4805. **Auditing and allowance of claims against**

Monthly audit of claims.

county. The board of park commissioners shall, at its first regular meeting in each month, audit and allow all just claims against the county, liability for which shall have been incurred by said board; but no claim shall be

Itemized accounts filed.

audited or paid until an itemized account of such claim in writing, *signed by the claimant or his or its authorized agent, shall have been filed in the office of the secretary*

Expenditures in excess of $25.

of said board; provided, that no order or resolution providing for the payment or expenditure of money, or creating an obligation in excess of the sum of twenty-five dollars ($25), or authorizing the making of any contract,

Vote.

shall be passed or adopted except by a yea and nay vote, which vote shall be recorded in full in the minutes *of the secretary.''*

Employment of secretary—clerk.

Section 5. **Secretary to be appointed — designation of superintendent of parks.** (1) The board of park commissioners shall have the power to employ a secretary, not a member of the board, who shall be the clerk of the board of park commissioners and attend all meet-

Record of proceedings.

ings of said board and keep correct minutes of all proceedings of said board in a book to be provided for that purpose by it, to be called "proceedings of the board of

Duties.

park commissioners of (entitled) county". It shall be the duty of the secretary to keep an accurate account of

Annual report.

all transactions of said board, and to make and submit in writing to said board at its first meeting in May in each year a report under oath showing in detail all the receipts and disbursements made by the board during the previous calendar year, which report shall be in duplicate, and after being approved by said board, one (1) of said duplicates shall be filed in the office of the

HeinOnline -- 1971 vol. II 1218 1971

county clerk and recorder, and one (1) in the office of the county treasurer, and, he shall perform such other services as the board from time to time shall require. In the absence of the secretary at any meeting held by the board, it shall designate one (1) of its members as clerk pro tem to keep the minutes of said meeting, which minutes shall be delivered to the secretary to be transcribed into the record book of said board. The minutes of said meeting in said record book, when approved by the board, shall be prima facie evidence of the matters and things there recited in any court in this state.

Clerk pro tem.

Prima facie evidence.

(2) The board of park commissioners shall have the power to employ a park superintendent, who may also be the secretary of the park board, and whose duties shall be of a managerial capacity, and who shall attend each regular meeting of the said board and report, either in writing or orally as the board may require, as to the activities, functions, and progress of whatever nature pertaining to the park lands and facilities over which he has supervision.

Employment of park superintendent. Duties.

Section 6. This act is effective upon its passage and approval.

Effective immediately.

Approved March 11, 1971

CHAPTER NO. 291

An Act to Amend Section 81-502, R.C.M., 1947, to Provide for the Exchange of State Coal Leases Issued Prior to July 1, 1967, for a Term of Ten Years or Less, for Leases Having a Term of Twenty Years.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 81-502, R.C.M., 1947, is amended to read as follows:

Amending clause.

"81-502. **Maximum term of lease — form — fee — *exchange.*** No coal mining lease shall be issued for a longer term than twenty (20) years, but the board may establish such rules and regulations for the renewal of a lease at the expiration of the term as it may deem proper and necessary. The board shall prescribe the form of the lease; the fee for issuing the lease and approving the bond

Maximum coal mining lease term 20 years.

Renewal.

Forms.

HeinOnline -- 1971 vol. II 1219 1971

Fee $5.

hereinafter provided shall be five dollars ($5.00) payable to the commissioner.

Right of existing owner to exchange lease.

The owner of any existing lease issued prior to July 1, 1967, which has a term of ten (10) years or less and which is in good standing, shall have the right to exchange it for a lease of the same lands having a term of not more than twenty (20) years from the commencement date of the original term, upon filing with the board, on or before December 31, 1972, a written application therefor and upon payment of a sum which is the full market value of the exchange as determined by the board, and upon acceptance of the rules and regulations and rents and royalties in effect at the date of the exchange of such leases and upon compliance with such other reasonable requirements as may be imposed by the board."

Application on or before December 31, 1972.

Approved March 11, 1971

CHAPTER NO. 292

An Act to Establish Emergency Assistance for Families With Children and to Provide for the County Share of Participation in Grants for Such Persons.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-502, R.C.M., 1947, as amended, is hereby amended to read as follows:

"Aid to dependent children" defined.

"71-502. **"Aid to dependent children" defined.** The term "aid to dependent children" means money payments with respect to or payments made for medical care in behalf of a dependent child or dependent children including money payments or payments made for medical care for any month to meet the needs of a relative with whom a dependent child is living if money payments have been made with respect to such child for such month. *The term "aid to dependent children" shall also include emergency assistance to families with children as provided by the Federal Social Security Act."*

Emergency assistance.

Amending clause.

Section 2. Section 71-508, R.C.M., 1947, as amended, is hereby amended to read as follows:

County department shall reimburse state department one-third.

"71-508. **County share of participation.** Each county department shall reimburse the state department in the amount of one-third (1/3) of the approved aid to de-

HeinOnline -- 1971 vol. II 1220 1971

pendent children grants paid by the state department to persons in the county each month exclusive of the federal share, *except in the case of emergency assistance grants made to or in behalf of families with children, as provided in section 71-502, in which case each county department shall reimburse the state department in the full amount granted to such persons exclusive of the federal share.* These reimbursements shall be credited to the aid to dependent children account of the state department."

Exception—full reimbursement.

Approved March 11, 1971

CHAPTER NO. 293

An Act Amending Section 93-1205, R.C.M. 1947, Providing for the Number of Trial Jurors.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-1205, R.C.M. 1947, is amended to read as follows:

Amending clause.

"93-1205. **Number of a trial jury.** A trial jury consists of twelve (12) persons; provided, that in civil actions and cases of misdemeanor, it may consist of twelve (12), or any number less than twelve (12), upon which the parties may agree in open court, *and further provided that in all civil actions where the relief asked for in the complaint is under the sum of ten thousand dollars ($10,000), then a trial jury may in the discretion of the trial judge consist of six (6) persons, and that two-thirds (2/3) of the jury may render a verdict; provided further, that where a six (6) person jury is authorized by law, each side shall have two (2) peremptory challenges, and they shall be exercised by the plaintiff first striking one (1), and the defendant then striking one (1), and so on, until each side has exhausted or waived his rights.*"

Trial jury—12 persons or less by agreement.

Under $10,000—6 persons.

Two-thirds verdict.

Challenges.

Approved March 11, 1971.

CHAPTER NO. 294

An Act to Remove the Residence Requirement for Persons Applying for Old Age Assistance; Amending Section 71-402, R.C.M. 1947; and Providing an Effective Date.

HeinOnline -- 1971 vol. II 1221 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-402, R.C.M. 1947, is amended to read as follows:

Eligibility for old age assistance.

"71-402. **Eligibility requirements for old age assistance.** Old age assistance shall be granted any person who:

(a) Has attained the age of sixty-five (65);

(b) Has income which is inadequate to provide a reasonable subsistence compatible with decency and health;

Application—residency.

(c) *Any person otherwise qualified who has no legal county residence, shall file his application in the county in which he is residing, and his assistance shall be paid entirely from state funds until he can qualify as having a legal residence in said county. If a recipient moves from one county to another county, he shall retain residence in the original county until he has resided in the second county for a period of one year at which time he will gain residence in the second county.*

Not an inmate.

(d) Is not at the time of receiving assistance an inmate of any public institution, except as a patient in a public medical institution; is not a patient in an institution for the treatment of tuberculosis or mental illness or is not a patient in a medical institution as a result of having been diagnosed as having tuberculosis or psychosis;

Transfer of property.

(e) Has not made an assignment or transfer of property for the purpose of rendering himself eligible under this act at any time within five (5) years immediately prior to the filing of application for assistance pursuant to the provisions of this act;

Other aid.

(f) Is not receiving aid to dependent children, aid to needy blind, or aid to the permanently and totally disabled, or medical aid for the aged, for himself or herself."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved March 11, 1971.

HeinOnline -- 1971 vol. II 1222 1971

CHAPTER NO. 295

An Act Amending Section 59-538, R.C.M. 1947, by Authorizing the Reimbursement of Certain Expenses to the Lieutenant Governor and Increasing the Maximum Amount of Reimbursable Expenses of Certain Elective Officials.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 59-538, R.C.M. 1947, is amended to read as follows: Amending clause.

"59-538. **Expenses of persons in state service — per diem allowance.** Every person engaged in any service in every department of state, except the governor, *the lieutenant governor,* and the attorney general, state auditor, superintendent of public instruction, railroad commissioners, secretary of state, state treasurer, clerk of the supreme court and justices of the supreme court who shall be paid actual and necessary expenses as hereinafter provided exclusive of persons in appointive positions, or positions created by law, whose duties consist of full or partial time in traveling to perform any service for the state under monthly or yearly salary, or who may be sent by any authorized executive of any department of the state upon a mission in performance of any clerical work, supervisory or extension work or otherwise, of every kind and character, shall be allowed, for the time engaged in such travel, thirteen dollars and fifty cents ($13.50) per day for such travel within the state of Montana, and for travel outside the state of Montana the sum of twenty-two dollars and fifty cents ($22.50) per day for meals and other necessary expenses; provided, that the provisions of this act shall not apply to persons holding offices specifically provided for in section 93-305, or section 93-313; provided that nothing herein contained shall be construed as affecting the validity of section 43-310. The governor shall be authorized actual and necessary expenses not to exceed sixty dollars ($60) per day *when engaged in state service away from Helena, Montana. The lieutenant governor, when directed by the governor to engage in state service, the* attorney general, state auditor, superintendent of public instruction, railroad commissioners, secretary of state, state treasurer, clerk of supreme court and justices of

State employees.

Travel per diem.

Exceptions.

Governor—$60 per day.

Lieutenant governor and others.

HeinOnline -- 1971 vol. II 1223 1971

$40 per day.

supreme court shall be authorized actual and necessary expenses not to exceed forty dollars ($40) per day while engaged in state service away from *Helena,* Montana."

Approved March 11, 1971.

CHAPTER NO. 296.

An Act to Provide for a Constitutional Convention; Making Appropriations in Connection therewith; Providing for an Immediate Effective Date; and Further Providing for an Automatic Repealer.

Be it enacted by the Legislative Assembly of the State of Montana:

Constitutional convention called.

Section 1. A constitutional convention to propose revisions, alterations, or amendments to the constitution of the state of Montana is hereby called.

Number of members.

Section 2. The number of members of the convention and the districts from which they are elected shall be the same as that provided for the election of members of the house of representatives of the Montana legislative assembly at the general election to be held November 7, 1972.

Qualifications.

Section 3. The qualifications of members shall be the same as that of members of the senate of the Montana legislative assembly as provided in article V, section 3 of the constitution of the state of Montana; "No person shall be a senator who shall not have attained the age of twenty-four (24) years, and who shall not be a citizen of the United States and who shall not (for at least twelve (12) months next preceding his election) have resided within the county or district in which he shall be elected."

Election of delegates.

Primary June 1, 1971.

Special general election November 2, 1971.

Section 4. Delegates to the constitutional convention shall be elected in the same manner as members of the house of representatives, except the special primary election shall be held June 1, 1971 and the special general election shall be held November 2, 1971.

Oath.

Section 5. Each member, before entering upon his duties, shall take and subscribe the following oath or affirmation prescribed by section 1 of article XIX of the constitution of the state of Montana: "I do solemnly

HeinOnline -- 1971 vol. II 1224 1971

swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the state of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid, or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this state, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law, so help me God."

Vacancies in convention.

Section 6. Vacancies occurring in the convention shall be filled in the manner provided for filling vacancies in the legislative assembly as provided in sections 43-215 and 43-216, R.C.M., 1947:

Vacancies in legislative assembly.

"43-215. **Filling vacancies in legislative assembly—appointment by board of county commissioners—calling of board meeting.** When a vacancy occurs in either house of the legislative assembly, the vacancy shall be filled by appointment by the board of county commissioners, or, in the event of a multi-county district, the boards of county commissioners comprising the district sitting as one appointing board. The chairman of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislative assembly, and he shall act as the presiding officer of the meeting."

Lack of majority vote.

Lot.

"43-216. **Alternate method of selection—failure of one candidate to receive majority vote.** In the event that a decision cannot be made by the appointing board because of failure of any candidate to receive a majority of the votes, the final decision may be made by lot from a number of candidates, not exceeding the number of counties comprising the district, in accordance with the rules of selection adopted by the appointing board."

Duty to attend organizational meeting—November 29, 1971.

Section 7. (1) It shall be the duty of the delegates elected to assemble in the chambers of the house of representatives in the state capitol building in the city of

HeinOnline -- 1971 vol. II 1225 1971

Helena at 10:00 a.m. on November 29, 1971 for an organizational meeting of no longer than three (3) days duration.

Purpose of meeting.

(2) This meeting shall be for the purpose of electing permanent convention officers, adopting rules of procedure, and providing for such interim committees and staff members as may be necessary to prepare for the plenary meeting of the convention.

Rules of procedure.

(3) Until the convention has adopted rules of procedure, "Mason's Manual of Legislative Procedure" shall govern the procedure of the convention. A majority of the whole number of delegates to the convention shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day. The convention may compel the attendance of its members.

Quorum.

Governor shall prescribe at first meeting—duties.

(4) The governor shall call the first meeting of the constitutional convention to order and shall preside until a temporary president is elected. The governor shall:

(a) call the roll of the members-elect, (as shown by the official election returns on file in the office of the secretary of state);

(b) cause the oath called for by this act to be administered to those members-elect who are present;

(c) call for nominations of convention members for the office of temporary president;

(d) cause the roll of members to be called for the purpose of voting for temporary president, and

(e) declare to be elected the person receiving a plurality of the votes cast for the office of temporary president.

Temporary president.

(5) The temporary president shall then assume the duties of the presiding officer, and the convention shall

Election of president.

proceed to the election of a president from within its membership in like manner as the temporary president was elected except that a majority of the votes cast is required to elect the president of the convention. The convention shall then proceed to elect one of its members

Vice-president.

as vice-president of the convention to preside in the absence of the president.

Duty to assemble January 17, 1972.

(6) It shall be the duty of the delegates elected to assemble in plenary session in the chambers of the house

HeinOnline -- 1971 vol. II 1226 1971

of representatives in the state capitol building in the city of Helena at 10:00 a.m. on January 17, 1972. The convention shall then remain in session as long as necessary, but shall transact its business and recess by 12:00 midnight, March 26, 1972, unless the convention by a majority of the whole number of delegates extends the plenary session of the convention to a date not later than April 26, 1972.

Length of session.

(7) For final adoption and signing of the convention's proposals, the convention may assemble for a meeting of no longer than three (3) days duration. The date for convening a special signing session of the convention may be set by the convention.

Final adoption and signing.

Section 8. In going to and returning from the convention and during its sessions, the members shall in all cases, except treason, felony or breach of the peace, be privileged from arrest; and they shall not be questioned in any other place for any speech or debate in the convention.

Privilege from arrest.

Section 9. The convention may select and employ such employees as it may be necessary to the efficient conduct of its business, each of whom shall receive such compensation as may be fixed by the convention. The convention may make such other expenditures as it deems proper to carry out its work, but shall not authorize total expenditures in excess of the amount appropriated by law for its expenses.

Employment of personnel.

Expenditures.

Section 10. (1) The convention shall determine the rules of its procedure, and be the judge of the election, returns and qualifications of its members. The convention shall keep a verbatim journal of its proceedings and a transcript of its debates. Each committee of the convention shall keep a record of its proceedings and reports. The convention may also provide for the publication of any of its other documents and reports.

Procedure—journal—records.

Publication.

(2) The verbatim journal of its proceedings, the transcript of the debates of the convention, and the committee reports and proceedings shall be filed in the office of the secretary of state.

Filing with secretary of state.

Section 11. (1) It shall be the duty of all public officers and employees to furnish the convention with any and all statements, papers, books, records and public

Duties of public officers and employees.

HeinOnline -- 1971 vol. II 1227 1971

documents that the convention requires on request of the convention or its committees, and appear before the convention or any committee thereof. The convention, and its committees, may compel the attendance and testimony of witnesses and the production of books, records and documents. Oaths may be administered by the president or any other officer of the convention. Subpoenas and subpoenas duces tecum may be issued over the signature of the president or any other officer of the convention, and may be served by any adult person designated by the issuing officer.

Subpoenas.

Oaths.

Contempt proceedings—district courts.

(2) Any district court judge, upon application of the convention, may compel the attendance of witnesses, the production of books, records or documents, and the giving of testimony before the convention by an attachment for contempt or otherwise in the same manner as production of evidence, not privileged by law, may be compelled before the court.

Use of facilities.

Section 12. (1) The convention may use the facilities of the state, municipal or county government when such use is not disruptive of regular governmental activities.

Public officers and employees may be granted leave.

(2) State, municipal and county officers and employees, at the request of the convention and with the consent of the employing agency, may be granted leave with or without pay from their agency to serve as consultants to the constitutional convention. If leave with pay is granted they shall receive no other compensation, except mileage and per diem, from the convention.

Schedule of legislation.

Section 13. The convention may also prepare a schedule of legislation to complement the proposed revisions, alterations or amendments. If the proposed constitution is adopted, the schedule shall be deemed to have been adopted also and shall take effect as provided therein. The schedule shall not be a part of the constitution, but shall have the effect of a public general law and may thereafter be amended or repealed by law.

Adoption.

Effect.

Schedule of transitional provisions.

Section 14. The convention shall prepare a schedule of transitional provisions and fix the date or dates upon which revisions, alterations or amendments, if adopted by the voters, take effect.

Lobbying.

Section 15. (1) Sections 43-801 to 43-808, R.C.M.,

HeinOnline -- 1971 vol. II 1228 1971

1947, providing for the licensing of legislative lobbyists shall apply to lobbying at the constitutional convention.

Report of licensed lobbyists.

(2) Licensed lobbyists shall file with the secretary of state a report on February 1, 1972; February 15, 1972; March 1, 1972; March 15, 1972; April 1, 1972; June 15, 1972. The report, under oath, must include all expenditures made by him relative to promoting or opposing constitutional provisions. On the fifth day a report is delinquent, the secretary of state shall suspend the license of any licensed lobbyist who fails to file a report until such report is filed. The suspension shall be entered on the docket, and the president of the convention notified.

Suspension.

Report requirements.

(3) Reports must be filed even though no expenditure may have been made.

(4) Reports need not include:

(a) reasonable internal expenditures such as office expenses, mailing and routine research, and

(b) reasonable expenditures for his personal food, lodging and travel.

(5) Expenditures of twenty-five dollars ($25) or less may be reported in total amounts rather than in detail.

Notice of termination.

(6) A lobbyist who terminates his duties shall give the secretary of state, within thirty (30) days after the date of such termination, written notice and shall include a report of his expenditures covering the period of time since his last report. Such reports shall be final.

Forms.

(7) The secretary of state shall provide forms and shall keep such reports on file for three (3) years. All records are to be open to the public.

Violation.

(8) Failure to file reports or the filing of incomplete information is a violation of section 43-808, R.C.M., 1947.

Members—per diem and expenses.

Section 16. (1) For each day of the organizational, plenary and signing sessions of the convention, members of the convention shall be paid the same per diem, and expenses as provided in section 43-310, R.C.M., 1947, for members of the legislative assembly.

President and vice-president.

(2) The president and vice-president of the convention shall be paid the same per diem, and expenses as the president of the senate and speaker of the house of representatives as provided in section 43-311, R.C.M., 1947.

HeinOnline -- 1971 vol. II 1229 1971

Mileage.

(3) Members and officers shall be entitled to mileage for three (3) trips to and from their residences and Helena by the nearest traveled route at the rate provided for the legislative assembly in section 43-310, R.C.M., 1947.

Officers and state employees—leave without pay.

(4) Officers and employees of the state and its political subdivisions who are elected and serve as delegates to the convention shall have leave, without pay, from their employment during the time the convention is in session, and they shall be entitled to the per diem, expenses and mileage for delegates as provided in this section.

Per diem, expenses and mileage.

Submission to voters for ratification.

Section 17. (1) The revision or alteration of, or the amendments to the constitution, adopted by the convention, shall be submitted to the electors of this state for ratification or rejection, at an election appointed by the convention for that purpose, not less than two (2) months nor more than six (6) months after the adjournment of the convention.

Election.

Proposal forms.

(2) The convention may submit proposals to the electorate for ratification in any of the following forms:

(a) submitted as a unit in the form of a new constitution;

(b) submitted as a unit with the exception of separate proposals to be voted upon individually, or

(c) submitted in the form of a series of separate amendments.

Certification.

(3) The proposals adopted by the convention shall be certified by the president and secretary of the convention to the secretary of state.

Publication of proposals.

(4) Each proposed revision, alteration, or amendment, together with appropriate information explaining each revision, alteration, or amendment, shall be published in full and disseminated to the electors upon adjournment of the convention but not later than thirty (30) days preceding the election and in such manner as the convention prescribes.

30 days preceding election.

Report.

(5) The convention shall also publish a report to the people explaining its proposals.

Notice of election.

(6) Notice of the election shall be given in the manner and form prescribed by the convention.

HeinOnline -- 1971 vol. II 1230 1971

Voting rules.

(7) The convention shall prescribe the manner and form of voting at such election.

Tabulation and canvass.

(8) The votes cast at such election shall be tabulated, returned and canvassed in such manner as may be directed by the convention.

Majority vote.

(9) If a majority of the electors voting at the special election shall vote for the proposals of the convention the governor shall by his proclamation declare the proposals to have been adopted by the people of Montana. The new constitutional provisions shall take effect as provided therein, or as provided in a schedule of transitional provisions attached thereto.

Proclamation by governor.

Election laws apply.

(10) The election laws of the state of Montana shall apply in all other respects to the election conducted under this section.

Qualified voters.

Section 18. Every person who, at the time of holding of the elections provided for in this act, is a qualified voter under the constitution and laws of this state shall be entitled to vote in such election.

Duties of public officials.

Section 19. All state and local officials shall do all those things which are appropriate to the holding of each of the special elections provided for in this act and which are required under the general election laws.

Twelve member constitutional convention commission created.

Section 20. (1) A temporary state agency known as the Montana constitutional convention commission consisting of twelve (12) members is hereby created to prepare for and assist the constitutional convention. Members of the commission shall be appointed for two (2) year terms, consideration being given to geographic, economic, and other pertinent factors as follows: .

Appointment.

(a) four (4) members of the house of representatives appointed by the speaker, no more than two (2) of whom shall be affiliated with the same political party;

(b) four (4) members of the senate appointed by the committee on committees, no more than two (2) of whom shall be affiliated with the same political party;

(c) two (2) members appointed by the governor, no more than one (1) of whom shall be affiliated with the same political party;

HeinOnline -- 1971 vol. II 1231 1971

(d) two (2) members appointed by the supreme court, no more than one (1) of whom shall be affiliated with the same political party.

Expenses.

(2) Commission members who are not government employees or elective officials shall be reimbursed for actual and necessary expenses incurred as commission members. However, the term "elective officials", as used in this subsection, excludes members of the legislative assembly.

"Elective officials" defined.

(3) A vacancy does not occur on the commission because a legislative member is not reelected to serve in the house from which he was appointed.

Vacancies.

(4) Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

Officers.

(5) The commission shall select from its membership a chairman and any other officers it considers necessary.

Appointment of director. Staff.

(6) The commission shall appoint a director and fix his salary and compensation. The director, subject to the approval of the commission shall hire the necessary staff and fix their compensation.

Public officers and employees may be granted leave.

(7) State, municipal and county officers and employees, at the request of the commission and with the consent of the employing agency, may be granted leave with or without pay from their agency to serve as consultants to the constitutional convention commission. If leave with pay is granted they shall receive no other compensation, except mileage and per diem, from the commission.

Duties of commission.

(8) It shall be the duty of the commission, in order to prepare for and assist the constitutional convention: to assist the secretary of state in conducting the special elections provided for in this act; to undertake studies and research; to compile, prepare and assemble essential information and materials for the delegates, without any recommendation; to disseminate information to the public on the constitution and convention as deemed desireable; to make convention arrangements including proposed rules and organization, site and facilities, the assembling and hiring of an interim staff for the convention; to disseminate information to the public on the

HeinOnline -- 1971 vol. II 1232 1971

proposals of the convention as directed by the convention.

Chairman shall schedule meetings.

(9) The chairman shall schedule meetings of the commission as deemed necessary. The chairman shall give due notice of the time and place of the meetings to members of the commission. The director shall report at each meeting.

Record of proceedings.

(10) The commission shall maintain a written record of its proceedings and its finances which shall be open to inspection by any person at the office of the commission during regular office hours.

Appointment of advisory groups.

(11) The director, subject to the approval of the commission may retain special consultants, appoint advisory groups, and consult with or request assistance from any state agency, private group, or individual deemed desirable.

Cooperation by state agencies.

(12) Upon request, state agencies shall cooperate with the commission by furnishing assistance and data to the extent possible.

Expenditures.

(13) The commission may accept and expend any federal or private funds which may be available for support of the study.

Report to convention—files.

(14) The commission shall report its findings and any recommendations it considers necessary to the convention and transfer its files to the constitutional convention within ten (10) days after the constitutional convention has convened.

Appropriations.

Section 21. (1) The following amounts are appropriated from the federal and private revenue fund to the constitutional convention commission:

For the biennium ending June 30, 1973—$146,461.

(2) The following amounts are appropriated from the general fund to the constitutional convention commission:

For the fiscal year ending June 30, 1971—$38,155

For the biennium ending June 30, 1973—$111,385.

(3) The following amounts are appropriated from the general fund to the constitutional convention:

HeinOnline -- 1971 vol. II 1233 1971

For the biennium ending June 30, 1973—$499,281.

(4) The following amounts are appropriated from the general fund to the secretary of state:

For the biennium ending June 30, 1973—$41,000.

(5) Any amount unexpended from this appropriaton at the end of a fiscal year shall be carried forward into the next fiscal year.

Severability clause.

Section 22. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act.

Effective immediately.

Section 23. This act is effective on its passage and approval.

Repealed June 30, 1973.

Section 24. This act is repealed effective June 30, 1973.

Approved March 11, 1971.

CHAPTER NO. 297

An Act to Amend Section 40-4917, R.C.M. 1947, Exempting Benevolent Associations from Licenses and Fees and to Add a New Section Numbered 40-4918 Requiring an Annual License for Benevolent Associations and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 40-4917, R.C.M. 1947, is amended to read as follows:

Application of law to benevolent associations.

"40-4917. **Other provisions applicable.** In addition to the provisions contained in this chapter, other chapters and provisions of this title shall apply to benevolent associations, to the extent applicable, as follows:

(1) Chapter 26 (scope of code).

(2) Chapter 27 (the commissioner of insurance), *except section 40-2726 fees and licenses.*

(3) The following sections of chapter 28 (authorization of insurers and general requirements):

HeinOnline -- 1971 vol. II 1234 1971

(a) Section 40-2801 (certificate of authority required —in general).

(b) Section 40-2805 (name of insurer).

(c) Section 40-2810 (management and affiliations).

(d) Section 40-2813 (continuance, expiration, reinstatement and amendment of certificate of authority).

(e) Section 40-2814 (mandatory revocation, suspension of certificate of authority).

(f) Section 40-2815 (suspension or revocation for violations and special grounds).

(g) Section 40-2816 (notice of suspension or revocation—effect upon agent's authority).

(h) Section 40-2817 (duration of suspension—insurer's obligations—reinstatement).

(i) Section 40-2818 (commissioner attorney for service of process).

(j) Section 40-2819 (serving process—time to plead).

(4) The following provisions of chapter 30 (assets and liabilities):

(a) Section 40-3001 ("assets" defined).

(b) Section 40-3003 (assets not allowed).

(5) Section 40-3133 (prohibited investments).

(6) Chapter 35 (trade practices and frauds).

(7) Chapter 37 (the insurance contract).

(8) The following sections of chapter 47 (organization and corporate procedures of domestic stock and mutual insurers):

(a) Section 40-4723 (prohibited pecuniary interest of officials).

(b) Section 40-4725 (home office and records—penalty for unlawful removal of records).

(c) Section 40-4726 (vouchers for expenditures).

(d) Section 40-4749 (mutual member's share of assets on liquidation).

HeinOnline -- 1971 vol. II 1235 1971

(e) Section 40-4750 (extinguishment of unused corporate charters).

(9) Chapter 51 (rehabilitations and liquidations)."

Section 2. There is a new section in Title 40, chapter 49, which shall read as follows:

Authority to continue business.

40-4918. **Annual license.** Associations which are now authorized to transact business in this state may continue such business until the first day of June next succeeding the effective date of this section. The authority of such association may thereafter be renewed annually, but in all cases to terminate on the first day of the succeeding June. However, a license so issued shall continue in full force and effect until the new license be issued or specifically refused. For each such license or renewal the association shall pay the commissioner twenty-five dollars ($25). A duly certified copy or duplicate of such license shall be prima facie evidence that the licensee is is a benevolent association within the meaning of this chapter.

Annual renewal.

Fee $25.

Prima facie evidence.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved March 11, 1971.

CHAPTER NO. 298

An Act to Provide for the Continuation of Coverage Under Individual and Group Health Insurance and Hospital and Medical Service Plan Contracts for Mentally Retarded or Physically Handicapped Dependent Children; Amending Chapter 37, Title 40, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is added to chapter 37, Title 40, R.C.M. 1947, two new sections which read as follows:

Individual hospital or medical expense insurance policies.

40-3738. **Continuation of coverage for handicapped—individual contracts.** An individual hospital or medical expense insurance policy, or hospital or medical service plan contract, delivered or issued for delivery in this state more than one hundred twenty (120) days after the

HeinOnline -- 1971 vol. II 1236 1971

effective date of this act, which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the policyholder or subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the insurer or hospital or medical service plan corporation by the policyholder or subscriber within thirty-one (31) days of the child's attainment of the limiting age and subsequently as may be required by the insurer or corporation but not more frequently than annually after the two year period following the child's attainment of the limiting age.

Required provision for retarded dependent child reaching limiting age.

Proof.

40-3739. **Continuation of coverage for handicapped—group contracts.** A group hospital or medical expense insurance policy, or hospital or medical service plan contract, delivered or issued for delivery in this state more than one hundred twenty (120) days after the effective date of this act, which provides that coverage of a dependent child of an employee or other member of the covered group shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the employee or member for support and maintenance, provided proof of such incapacity and dependency is furnished to the insurer or hospital or medical service plan corporation, by the employee or member within thirty-one (31) days of the child's attainment of the limiting age and subsequently as may be required by the insurer or corporation, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

Group hospital or medical expense policies or plans.

Required provision for retarded dependent child reaching limiting age.

Proof.

Section 2. The provisions of this act shall have equal application to hospital or medical expense insurance

Application of act.

HeinOnline -- 1971 vol. II 1237 1971

policies, and hospital and medical service plan contracts, any other exemption or law to the contrary notwithstanding.

Approved March 11, 1971.

CHAPTER NO. 299

An Act to Amend Section 23-3014, R.C.M. 1947, Relating to the Cancellation of Registry of Persons Convicted of a Felony.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 23-3014, R.C.M. 1947, is amended to read as follows:

"23-3014. **Cancellation of registry for other reasons—reregistration.** (1) The registrar shall cancel any registration card:

Registrar shall cancel registration card.

(a) At the written request of the person registered;

(b) When a certificate of the death of any elector is filed;

Challenge of electors for cause.

Affidavits.

(c) Within forty-five (45) days prior to the closing of registration three (3) qualified registered electors residing within the precinct may challenge an elector by filing affidavits giving the name of the challenged elector, his registry number, his residence, and stating of the personal knowledge of the affiant the person registered does not reside at the place designated on his registration card;

(d) When the insanity of the elector is legally established;

(e) If a certified copy of a final judgment of conviction of any elector of a felony is filed;

(f) If a certified copy of a court order directing the cancellation is filed with the registrar.

Notice to elector.

(2) Within thirty (30) days after registration has been cancelled, the registrar shall send written notice to the elector at the address shown on the registration card. If a person proves to the registrar that he is qualified, he may reregister.

HeinOnline -- 1971 vol. II 1238 1971

List of electors—felony convictions.

(3) At the close of registration, the court clerk of each county shall send a list of those electors whose registrations have been cancelled due to a felony conviction to the secretary of state. The secretary of state shall compile a list of all such electors and send a copy of the list to each registrar."

Approved March 11, 1971.

CHAPTER NO. 300

An Act Amending Section 93-5010, R.C.M. 1947, Providing For Peremptory Challenges.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-5010, R.C.M. 1947, is amended to read as follows:

Challenge of jury or jurors.

"93-5010. **Challenge.** Each party may challenge the jury or jurors as follows:

1. The panel or array;

2. For cause;

3. Peremptory.

Limitations.

There can be only one challenge on a side to the array or panel, which may be made by one or more of the parties. A challenge to the array or panel may be made and the whole array or panel set aside by the court, when the jury was not selected, drawn, summoned or notified as prescribed by law. Challenges to individual jurors are for cause or peremptory. Each party is entitled to four peremptory challenges, *except as provided for under section 93-1205.* If no peremptory challenges are taken until the panel is full, they must be taken by the parties alternately, commencing with the plaintiff."

Peremptory challenges.

Approved March 11, 1971.

CHAPTER NO. 301

An Act to Amend Section 82-1917 and 82-1918, R.C.M. 1947, Relating to the Manner of Letting Contracts for the Requisition for Supplies and Extending the Period for Which Contracts May Be Made.

HeinOnline -- 1971 vol. II 1239 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-1917, R.C.M. 1947, is amended to read as follows:

Duty of state officers—tabulation of supplies.

Duty of state purchasing agent.

Approval by governor.

Purchases.

"82-1917. **Requisitions for supplies—manner of letting contracts.** State officers, commissioners or boards, or departments, superintendents of state institutions or departments shall tabulate in detail the amount of supplies on hand for any class of merchandise for such period as determined by the state purchasing agent, and the additional supplies needed for a period of time not to exceed one year's supply. The state purchasing agent shall make examination of the amount of supplies on hand and shall determine from such examination and from the statements so furnished him, as in this section provided, the additional amount of supplies necessary and shall make an itemized statement thereof, all of which acts of said state purchasing agent shall be subject to approval of the governor. As soon as the state purchasing agent shall determine, as in this section provided, what kind of supplies and the amount necessary for the state of Montana to purchase for its state offices, boards, commissions, departments or institutions, he shall make make such purchases.

Competitive bids.

$2,000 or over—sealed bids solicited from listing.

Listing may be cancelled.

Advertising requirements.

All purchases by the state purchasing agent shall be based on competitive bids. On any purchase where the estimated expenditure shall be two thousand dollars ($2,000) or over, sealed bids shall be solicited by mail from each person, firm or corporation who has filed with the state purchasing agent a request in writing that it be listed for solicitation on bids for such particular items set forth in such listing: provided, that if any person, firm or corporation whose name is listed shall fail to respond to any solicitation for bids, after the receipt of *two* such solicitations, such listing shall, within the discretion of the state purchasing agent, be canceled: provided, further, that it shall be within the discretion of the state purchasing agent to advertise for such purchases. If bids are solicited through advertising, such advertisement shall be made in at least three newspapers, *one of which must be a daily,* of general circulation printed within the state, once each week for *two (2)* consecutive weeks, and such advertisement shall state that sealed proposals will be received by the state purchasing depart-

HeinOnline -- 1971 vol. II 1240 1971

ment, up to a time to be mentioned therein, for furnishing supplies for such state offices, boards, commissions, departments or institutions, which notice shall also state that detailed statements of supplies to be furnished are on file at the office of the state purchasing department and subject to inspection, and shall also specify that at a certain time, to be therein mentioned, said proposals will be opened, and contracts awarded to the lowest responsible bidder.

Less than $2,000.

On purchases where the estimated expenditure is less than two thousand dollars ($2,000), bids shall be secured without advertising, but the state purchasing agent shall solicit bids for such supplies by notice sent by mail to prospective suppliers whose names are listed as hereinbefore provided, which notice shall contain the same information as is herein required to be set forth in advertisements.

Solicitation of bids by mailed notice.

Proposal requirements.

In the case of all bids as herein provided, there shall be separate proposals and separate contracts. Each proposal *may* be accompanied by sample supplies proposed to be furnished. The proposals shall be in writing, sealed and marked, "proposals for furnishing supplies," and shall be addressed to the state purchasing agent, Helena, Montana.

Public bid openings—contract award.

Rejection.

Purchase on open market.

At the time set for the opening of bids, said proposals shall be opened in public, and contracts awarded to the lowest responsible bidder. The department shall have the right to reject any and all bids. If all proposals be rejected, proposals shall again be invited and proceeded with in the same manner; provided, however, that in such event, the state purchasing agent may, with the approval of the governor, purchase such supplies on the open market if they can be so purchased at a better price.

5% performance guaranty.

With any proposal the state purchasing agent may require a certified check on some responsible bank, payable to the treasurer of the state of Montana, equal in amount to five percent (5%) of the sum of such proposal, as a guarantee for the faithful performance of any contract awarded. After the award is made, all checks deposited as a guarantee shall be returned, except that of the successful bidder whose check shall be held until

HeinOnline -- 1971 vol. II 1241 1971

Delivery included.

contract signed and bond filed and approved, if bond be required. All proposals shall include the delivery of the supplies to the departments and institutions for which they are purchased.

Limitation on purchasing.

The state officers, superintendents, commissioners, departments or institutions, shall not have the authority to purchase any supplies or material, except on approval of the state purchasing agent."

Amending clause.

Section 2. Section 82-1918, R.C.M. 1947, is amended to read as follows:

Contracts limited to three years.

"82-1918. **Contracts limited to** *three (3) years.* No contracts shall be made for a longer peeriod than *three (3) years* and such contract shall provide for the delivery of such articles at such times and in such quantities as the purchasing agent may determine."

Approved March 11, 1971.

CHAPTER NO. 302

An Act to Extend the Time For Preparation of Preliminary Survey for a Water Conservancy District and Amending Section 89-3405, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 89-3405, R.C.M., 1947, is amended to read as follows:

"89-3405. **Action by water board upon receipt of request.**

Duties of water board— preliminary survey.

(1) Sooner than eleven (11) days after the request is received, the water board shall acknowledge the request.

(2) The water board shall itself, or through cooperating agencies, or together with cooperating agencies:

(a) consult with the board of supervisors and all persons who may participate in the proposed project;

(b) conduct a preliminary survey of the proposed district;

(c) estimate costs of works, maintenance, and operation;

(d) determine sources of financing;

HeinOnline -- 1971 vol. II 1242 1971

(e) reach a tentative decision on the feasibility, desirability and compatability with the state water plan of the proposed district;

(f) adjust the boundaries of the proposed district to improve the feasibility, desirability or consistency with the state water plan;

(g) sooner than *one (1) year* after receipt of the request, send a report of the preliminary survey to the applicants, the board of supervisors, fish and game commission, state soil conservation committee, state board of health, and other affected state and federal resource agencies for their comments."

Report within one year after receipt of request.

Approved March 15, 1971.

CHAPTER NO. 303

An Act to Extend the Time for Preparation of Feasibility Study for a Water Conservancy District and Amending Section 89-3407, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 89-3407, R.C.M., 1947, is amended to read as follows:

Amending clause.

"89-3407. **Feasibility study and report—adjustment of proposed boundaries.** After the hearing, the applicants, or any one of them, may request the water board to prepare a detailed feasibility study of the proposed district. If the water board concludes that the proposed district is feasibile, desirable, and consistent with the state water plan, it shall prepare a feasibility report, and sooner than *one (1) year* after receipt of the request, send copies to the applicants, if any, the fish and game commission, state soil conservation committee, state board of health, and other affected state and federal water resource agencies. For good cause shown based upon the actual technical problems in completing the report, the water board may use necessary additional time to complete and distribute the report. The detailed feasibility report shall describe the proposed works and contain an estimate of the cost of the works, the means of financing, and the estimated costs of operation and maintenance.

Request to water board—feasibility study.

Report within one year.

Feasibility report requirements.

HeinOnline -- 1971 vol. II 1243 1971

Adjustment of boundaries.

The water board may adjust the boundaries of the proposed district to improve the feasibility, desirability and consistency with the state water plan, and to exclude land which would receive no direct or indirect benefits from the proposed district."

Approved March 15, 1971.

CHAPTER NO. 304

An Act Relating to Possession of Explosives and Destructive Devices with Intent to Injure Persons or Property; Setting Penalties Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

"Destructive device" defined.

Section 1. (1) "Destructive device" as used in this chapter, shall include, but is not limited to, the following weapons:

(a) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.

(b) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.

(c) Any weapon of a caliber greater than .60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun or shotgun ammunition.

(d) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except such devices as are designed primarily for emergency or distress signaling purposes.

(e) Any breakable container which contains a flammable liquid with a flashpoint of 150 degrees fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

HeinOnline -- 1971 vol. II 1244 1971

(2) "Explosive" as used in this chapter, shall mean any explosive defined in section 69-1901, R.C.M., 1947. "Explosive" defined.

Section 2. (1) Every person who, with intent to commit a felony, has in his possession any destructive device or any explosive on a public street or highway, in or near any theater, hall, school, college, church, hotel, other public building, or private habitation, in, on, or near any aircraft, railway passenger train, car, vessel engaged in carrying passengers for hire, or other public place ordinarily passed by human beings is guilty of a felony, and shall be punishable by imprisonment in the state prison for a period of not more than ten (10) years. Penalties for conviction.

Approved March 15, 1971.

CHAPTER NO. 305

An Act Amending Section 26-302, R.C.M., 1947, to Require Big Game Hunter to Wear Not Less Than Four Hundred Square Inches of Hunter Orange Material on His Person; Making an Exception for Archers Hunting During a Season for Archers Only; and Providing that a Failure to Wear Hunter Orange Material Shall not be Evidence of Contributory Negligence in a Civil Action and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-302, R.C.M., 1947, is amended to read as follows: Amending clause.

"26-302. **Big game hunters to wear colored garments.** *(1)* It shall be unlawful for any person to hunt any of the big game animals in this state *or to accompany any hunter as an outfitter or guide* under any of the provisions of the laws of this state without such person wearing as exterior garments *on his person a total of not less than four hundred (400) square inches of hunter orange material.* Required garments for big game hunters. Not less than 400 square inches.

(2) 'Hunter orange' means a daylight fluorescent orange color. "Hunter orange" defined.

This section shall not apply to any person hunting with a bow and arrow in an area which at the time is open to big game hunting with a bow and arrow only. Exclusion—bow and arrow hunting.

HeinOnline -- 1971 vol. II 1245 1971

Noncompliance contributory negligence.

(3) Failure of any person to comply with this section shall not be treated as evidence of contributory negligence in a civil action for injury to him or for his wrongful death.

Effective May 1, 1972.

(4) This act shall become effective May 1, 1972."

Approved March 15, 1971.

CHAPTER NO. 306.

An Act to Revise the Water and Waste Water Operators Certification Act by Attaching the Certification Board to the State Board of Health: Amending Section 69-5903, 69-5908, and 69-5910.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-5903, R.C.M., 1947, is amended to read as follows:

"69-5903. **Board of certification to assist director—composition—terms of members—meetings and organization—examination of candidates for certification.** (1) The governor of the state of Montana shall appoint a board of certification to advise and assist the director in the administration of the certification program. *The water and waste water operators certification board shall be attached to the state board of health and shall serve as an advisory board to the state board of health in actions relating to the qualifications of water and waste water treatment plant operators.* The board shall be composed of seven (7) persons as follows:

Governor shall appoint water and waste water operators certification board.

Advisory capacity.

Composition and qualifications.

(a) Two (2) members who are currently employed water supply system or water treatment plant operators holding valid certificates or receiving certificates within one (1) year from the date of initiation of this program. One (1) of these members is required to hold, or receive within one (1) year from the date of initiation of this program, a certificate by examination of the highest class issued by the board. There is no restriction on the classification of the certificate held by the other operator.

(b) Two (2) members who are currently employed waste water treatment plant operators holding valid certificates or receiving certificates within one (1) year from the date of initiation of this program. One (1) of these

HeinOnline -- 1971 vol. II 1246 1971

members is required to hold, or receive within one (1) year from the date of initiation of this program, a certificate by examination of the highest class issued by the board. There is no restriction on the classification of the certificate held by the other operator.

(c) One (1) member presently serving on the faculty of a university or college whose major field is related to water supply systems, waste water treatment, chemical or civil engineering, chemistry or bacteriology.

(d) One (1) member who is a representative of a municipality required to employ a certified operator and who holds a position of either city manager, city engineer, director of public works, works manager, or their equivalent.

(e) The director of the division of environmental sanitation or a qualified member of his staff to be appointed by the director.

Terms of office.

(2) Each member of the board, with the exception of the ex officio voting member from the state board of health, shall be appointed for a six (6) year term except in the case of the initial appointments the municipal representative shall be appointed for one (1) year, the faculty member shall be appointed for two (2) years, and the water and waste water operators shall be appointed for three (3), four (4), five (5), and six (6) years setting forth in the appointment the term in the beginning. Vacancies shall be filled by appointment by the governor for the unexpired term. The director shall be the only permanent member of the board.

Organization meeting—chairman.

(3) Members of the first board shall at the call of the director, organize and elect from their number a chairman. Thereafter, annually when new members are appointed to the board a chairman shall be elected at the next board meeting. The director shall be the secretary to the board.

Director—secretary.

Examination of candidates for certification.

(4) The board shall hold at least one (1) examination each year for the purpose of examining candidates for certification at a time and place designated by the board. Those applicants whose competency is acceptable to the board shall be recommended to the director for certification. Additional meetings may be called by the chairman, secretary, or upon written request of four (4) members of

Additional meetings.

HeinOnline -- 1971 vol. II 1247 1971

Quorum.
Per diem and expenses.

the board as may be reasonably necessary to carry out the provisions of this act. Four (4) members shall constitute a quorum. The members of the board shall receive a fee of twenty dollars ($20) per day while in session, plus the cost of actual and necessary expenses, including travel while discharging their official duties."

Amending clause.

Section 2. Section 69-5908, R.C.M., 1947, is amended to read as follows:

Application.
Fee.
Deposit.
Investment.
Protection of water quality.

"69-5908. **Application for operator's certificate—payment of fee—use of proceeds.** Any person desiring to engage in the operation of a water treatment plant, water distribution system or waste water treatment plant shall first file an application with the board for a proper certificate. The board shall charge a fee of the same amount as the license cost set forth in section 69-5909, for the filing of each application by any person and shall not act upon any application until such fee has been paid. All filing and certification fees collected hereunder shall be deposited with the state treasurer in the "Water and Waste Water Operators Certification Examining Board Account" in the *state department of health* earmarked revenue fund and shall be used to pay the expenses of the board as set forth in this act and for no other purpose. *Moneys may be invested in accordance with procedures of investment of state monies.* In granting of such certificates, the board shall have due regard for the interest of the state of Montana to protect the drinking water supplies and the quality of its water."

Amending clause.

Section 3. Section 69-5910, R.C.M., 1947, is amended to read as follows:

Rules and regulations.
Approval.
Requirements.

"69-5910. **Rules and regulations of board.** The board shall make such rules and regulations as are reasonably necessary to carry out the intent of this act. *Before such rules and regulations become official, they shall be approved by the state board of health.* The rules and regulations shall include, but are not limited to, provisions establishing the basis for classification of treatment plants in accordance with section 69-5904, provisions establishing qualifications of applicants, procedures for examination of candidates and such other provisions as are necessary for the administration of this act."

HeinOnline -- 1971 vol. II 1248 1971

Section 4. The provisions of this act shall be severable; and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held invalid, the remainder of this act shall continue in full force and effect. Severability clause.

Approved March 15, 1971.

CHAPTER NO. 307.

An Act to Provide for the Filing of Certain Forms with the Montana Water Resources Board Relative to Ground Water Appropriation; Amending Sections 89-2911 and 89-2913, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 89-2911, R.C.M., 1947, is amended to read as follows: Amending clause.

"Section 89-2911. **Definitions.** As used in this act or regulations issued hereunder: Definitions.

(a) "Ground water" means any fresh water under the surface of the land including the water under the bed of any stream, lake, reservoir, or other body of surface water. Fresh water shall be deemed to be water fit for domestic, livestock or agricultural use. The administrator, after notice and hearing, is authorized to fix definite standards for determining fresh water in any controlled ground water or subarea of the state. "Ground water."

(b) "Aquifer" means any underground geological structure or formation which is capable of yielding water or is capable of recharge. "Aquifer."

(c) "Well" means any artificial opening or excavation in the ground, however made, by which ground water can be obtained or through which it flows under natural pressures or is artificially withdrawn. "Well."

(d) "Beneficial use" means any economically or socially justifiable withdrawal or utilization of water. "Beneficial use."

(e) "Person" means any natural person, association, partnership, corporation, municipality, irrigation district, the state of Montana or any political subdivision or agency thereof, and the United States or agency thereof. "Person."

HeinOnline -- 1971 vol. II 1249 1971

"Administrator." (f) "Administrator" means the *Montana water resources board.*

"Ground water area." (g) "Ground water area" means an area which, as nearly as known facts permit, may be designated so as to enclose a single and distinct body of ground water, which shall be described horizontally by surface description in all cases and which may be limited vertically by describing known geological formations should conditions dictate this to be desirable. For purposes of administration, large ground water areas may be divided into convenient administrative units "known as subareas."

"Notice of appropriation." *(h) "Notice of appropriation" means an optional form on which the appropriator notifies the administrator and files for record the intention to appropriate ground water. This form filed alone does not give the appropriator the right to use ground water. It must be followed by a notice of completion to establish a right.*

"Notice of completion." *(i) "Notice of completion" means a form on which the appropriator notifies the administrator and files for record the completion of a well (notice of completion of ground water appropriation by means of well) or the completion of a development to withdraw ground water without a well as by subirrigation and other natural processes (notice of completion of ground water appropriation without a well).*

"Declaration of vested ground water rights." *(j) "Declaration of vested ground water rights" means a form which was provided, for a period of four (4) years after January 1, 1962, for filing vested ground water rights. This form expired on January 1, 1966."*

Amending clause. Section 2. Section 89-2913, R.C.M., 1947, is amended to read as follows:

Forms for appropriations. "Section 89-2913. **Filing—notice of appropriation—notice of completion.** (a) The administrator shall prepare and publish forms for the filing by appropriators with the county clerks. They shall be known as a "notice of appropriation" and a "notice of completion," respectively.

Requirements—notice of appropriation. The notice of appropriation shall require, and provide space for, answers to such questions as: (1) the name and address of the appropriator; (2) the beneficial use for which the appropriation is made, including a description of the lands to be benefited if for irrigation; (3) the rate of use in gallons per minute of ground water claimed; (4) the annual period (inclusive dates) of in-

HeinOnline -- 1971 vol. II 1250 1971

tended use; (5) the probable or intended date of first beneficial use; (6) the probable or intended date of commencement and completion of the well or wells; (7) the location, type, size and depth of the well or wells contemplated; (8) the probable or estimated depth of the water table or artesian aquifer; (9) the name, address and license number (if any) of the driller engaged; and (10) such other similar information as may be useful in carrying out the policy of this act.

Requirements—notice of completion.

The notice of completion shall require answers to the same sort of questions as required for the notice of appropriation, except that for the most part it shall inquire as to accomplished facts concerning the well or means of withdrawal, including information as to the static level of water in the casing or the shut-in pressure if the well flows naturally; the capacity of the well in gallons per minute by pumping or by natural flow; the approximate draw-down or pumping level of the well; the approximate surface elevation at the well head; the casing record of the well; the drilling log showing the character and thickness of all formations penetrated; the depth to which the well is drilled; and similar information.

Use of ground water other than well.

For the benefit of persons obtaining (or desiring to obtain) ground water without a well (as by subirrigation and other natural processes) a specially prepared "notice of completion" shall be provided, enabling such persons to describe the means of using ground water and to estimate the amount of water so used, and requiring such other similar information as shall be pertinent to this particular class of user. The administrator shall distribute said forms to the county clerks.

Notice of appropriation filed with clerk.

(b) On and after January 1, 1962, any person desiring to appropriate ground water may complete a notice of appropriation and file it with the county clerk of the county in which the appropriation is located.

Distribution of copies.

(c) Upon the filing of a notice of appropriation, the county clerk shall transmit a copy thereof to the administrator, and to the Montana bureau of mines and geology, retaining the original on file locally.

Excavation within 90 days.

(d) After filing a notice of appropriation, in order to acquire a right based thereon, the person must, within ninety (90) days, commence actual excavation and diligently prosecute construction of a well and, upon its completion,

HeinOnline -- 1971 vol. II 1251 1971

Notice of completion filed with clerk.

file a notice of completion with the county clerk of the county in which the appropriation is located. The county clerk shall handle and transmit such filed notices as in the case of a filed notice of appropriation.

Priorities.

(e) A failure to file a notice of appropriation deprives the appropriator of his right to relate his date of appropriation back, and results in the dating of his appropriation as of when he files a notice of completion. Until a notice of completion is filed with respect to any use of ground water instituted after January 1, 1962, no right to that use of water shall be recognized. However, in the case of uses instituted prior to January 1, 1962 and diligently prosecuted to completion on or after that date, the date of appropriation shall relate back to the date of commencement of construction, upon the filing of a notice of completion.

Oil and gas well logs filed—deemed compliance.

(f) Persons required to file well logs and other information under the laws governing the conservation of oil and gas and who do so in compliance therewith, shall be deemed to have complied with all of the filing requirements of this act insofar as it applies to such particular oil and gas wells, salt water disposal wells, and injection wells. The date of appropriation in such cases shall be the date that written notice of intention to drill is given to the oil and gas conservation commission of the state of Montana.

Duty of driller.

(g) It shall be the responsibility of the driller of each well to fill out the notice of completion for the appropriator, and the latter shall be responsible for its filing.

Beneficial use of ground water prior to January 1, 1962.

(h) Persons who had put ground water to a beneficial use, including subirrigation or other natural process, prior to January 1, 1962 had a four (4) year period after January 1, 1962 to file a "declaration of vested ground water rights" in the office of the county clerk of the county in which the claimed right was situated. The right to file a "declaration of vested ground water rights" expired on January 1, 1966; therefore, any person desiring to file on ground water put to beneficial use prior to January 1, 1962, but not filed on by December 31, 1965 may file a "notice of completion." The appropriators right will commence on the date the notice is filed, except as hereinafter provided.

Filing notice of completion.

Distribution of copies.

The county clerk shall transmit copies to the office of the administrator and the bureau of mines and geology.

HeinOnline -- 1971 vol. II 1252 1971

The administrator shall attend to filing copies in any other counties affected by the appropriation.

Prima facie evidence.

The "declaration of vested ground water rights" *as provided for, to be filed on from January 1, 1962 to January 1, 1966* shall be taken and received in all courts of this state as prima facie evidence of the statements therein contained.

Noncompliance—burden of proof.

Failure to comply with this requirement shall in no wise work a forfeiture of such rights, or prevent any such claimant from establishing such rights in the courts, but he must maintain the burden of proving such unrecorded rights.

Water well log forms filed.

Provided, however, that persons who have filed the water well log form, provided for in sections 1 and 2 of chapter 58, session laws of Montana, 1957, shall be deemed to have complied with the requirements of this section. These latter forms may be returned to the county clerks by the administrator for the purpose of correction or for the entry of material facts necessary to fully complete the filing."

Approved March 15, 1971.

CHAPTER NO. 308

An Act to Amend Section 92-411, R.C.M., 1947, so as to Define an "Employee" to Include Vocational Rehabilitation and Other on-the-job Trainees, Whether or not under any Appointment or Contract of Hire, and Provide that Members of a Partnership and Owners of Sole Proprietorships May Elect to be Considered an "Employee" for Workmen's Compensation Coverage Purposes; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-411, R.C.M., 1947, is hereby amended to read as follows:

"Employee" and "workman" defined.

"92-411. **Employee and workman defined.** "Employee" and "workman" are used synonymously and mean every person in this state, including a contractor other than an "independent contractor" who is in the service of an employer as defined by the preceding section, under any appointment or contract of hire, expressed or implied, oral or written, including aliens and also including min-

HeinOnline -- 1971 vol. II 1253 1971

ors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay, including city and town firemen, highway patrolmen, police officers, county sheriffs, deputy sheriffs, constables, truant officers and all peace officers, also all public officers and their deputies, assistants and employees, but excluding any person whose employment is both casual and not in the courses of the trade, business, profession or occupation of his employer, unless such employer has elected to be bound by the provisions of the compensation law, in which case all employees are included, whether their employment is casual or otherwise, and also excluding any employee engaged in household or domestic service.

Exclusions.

"Employee" further defined.

"Employee" also means a recipient of general relief who is performing work for a county of this state under the provisions of section 71-307, *any juvenile performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program, and any person receiving vocational rehabilitation training, or other on-the-job training under any state or federal vocational training program, whether or not under any appointment or contract of hire with an "employer" as defined in this title, and whether or not receiving payment from a third party.*

Employer may elect to include partner or sole proprietor as "employee."

If the employer is a partnership, or sole proprietorship, such employer may elect to include as an "employee" within the provisions of this act, any member of such partnership, or the owner of the sole proprietorship, devoting full time to the partnership or proprietorship business. In the event of such election, the employer must serve upon the employer's insurance carrier and the industrial accident board written notice naming the partners and/or sole proprietors to be covered, and no partner or sole proprietor shall be deemed an employee within this act until such notice has been given. For premium rate making the insurance carrier shall assume salary or wage of such electing "employee" to be five hundred dollars ($500) per month."

Duty to serve notice.

Rate making assumption—$500 per month.

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved March 15, 1971.

HeinOnline -- 1971 vol. II 1254 1971

CHAPTER NO. 309

An Act to Provide for the Protection and Conservation of all Birds of the Orders Falconiformes, Strigiformes, Anseriformes, Ciconiiformes and Coraciiformes (Commonly Called Hawks, Owls, Waterfowl, Herons and Kingfishers, Respectively); Protection and Conservation of certain birds of the Order Passeriformes (Jays); to Change Exemptions From General Provisions to Read Predatory Mammals Instead of Predatory Animals; to Change the Names of Certain Birds Exempted from General Provisions to Conform to the American Ornithological Union's Nomenclature; to Exempt Certain Introduced Birds of the Order Passeriformes (Starlings) and Columbiformes (Rock Doves) from General Provisions; to Provide for Licensing and Regulation of the Sport of Falconry; and to Amend Sections 26-215 and 26-501, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-215, R.C.M., 1947, is amended to read as follows:

Exemptions from fish and game laws.

"26-215. **Exemption from general provisions.** (a) The provisions of the fish and game laws shall not apply to persons pursuing, hunting, capturing, shooting, killing, taking or trapping, or attempting to kill, take or trap predatory *mammals,* prairie dogs, ground squirrels, jackrabbits, gophers, or *house* sparrows, crows, blackbirds, magpies, *starlings and rock doves,* which may be pursued, hunted, taken, killed, shot, trapped, possessed or transported at any time except as specifically set forth herein and enforced pursuant to section 26-324.

Permission from land owner to hunt jackrabbits.

(b) It shall be illegal to hunt jackrabbits on private land with artificial light unless written permission of the landowners, lessee or agent is obtained.

Fishing—resident minors under 15.

Nonresident minors under 15.

(c) Minors under fifteen (15) years of age may fish for and take fish, during the open season without a license; provided, however, that no nonresident person, under the age of fifteen (15) years, shall fish in or on any Montana waters without first having obtained a Class B, B-2 or B-3 fishing license, unless such nonresident person under the age of fifteen (15) years shall be in the company of an adult in possession of a valid Montana fishing license, provided that the limit of fish for

HeinOnline -- 1971 vol. II 1255 1971

such nonresident person and the accompanying adult combined shall not exceed the limit for one adult as established by law or by regulation of the commission."

Amending clause.

Section 2. Section 26-501, R.C.M., 1947, is amended to read as follows:

"26-501. **Protection of wild birds other than game birds.** Any person who at any time shall hunt, capture, kill, possess, purchase, offer or expose for sale, ship, transport or cause to be shipped or transported any wild bird other than a game bird, or any part of the plumage, skin or body of any such bird, irrespective of whether said bird was captured or killed within or without the state, or take or destroy the nest or eggs of any such wild bird, except under a certificate, *falconer's license* or permit issued by the state fish and game warden [director], shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by section 26-324. The provisions of this section shall not apply to the hunting, trapping, or killing of *house* sparrows, crows, *starlings, rock doves,* blackbirds, *and* magpies, and such other birds as the fish and game commission shall designate, or the taking or destruction of their nests and eggs."

Penalties for hunting wild birds.

Certificate, falconer's license or permit required.

Exemptions.

"Raptors" defined.

Section 3. (1) The word "raptors" when used in this section shall mean all birds of the orders falconiformes and strigiformes, commonly called falcons, hawks, eagles, ospreys and owls.

Hunting raptors prohibited.

(2) It is prohibited for any person at any time to hunt, capture, kill, possess, purchase, offer or expose for sale, transport or cause to be shipped or transported any raptor except as herein provided.

Regulations—practice of falconry.

License required.

(3) The Montana fish and game commission may make specific regulations for the keeping of records, trapping or taking, possession or training of raptors used in the practice of falconry, and may authorize the issuance of licenses to persons for the practice of falconry. It shall be unlawful for a resident of Montana to possess a raptor or to train any raptor in the practice of falconry except under such license.

Capture of certain birds prohibited.

(4) The peregrine falcon (Falcon peregrinus), bald eagle (Haliaetus leucocephalus), golden eagle (Aquila chrysaetos), and osprey (Pandion haliaetus) may not be captured in the state of Montana for the sport of falconry.

HeinOnline -- 1971 vol. II 1256 1971

(5) The fee for a falconry license is three dollars ($3) a year or any part thereof. License shall expire April 30th each year. Fee $3.

(6) No license shall be issued to any person under the age of twelve (12) years. Person under age 12.

(7) Species of raptors which are native to North America may be brought into Montana for the purpose of falconry unless such action is specifically prohibited by this section, the laws of other states, or the regulations of the federal government. Such raptors may be possessed, subject to all provisions of this section. Any person bringing a raptor into the state of Montana must be able to show proof of the area of origin. Importation for falconry. Proof of origin.

(8) No licensee shall at any time possess more than three (3) raptors, and this shall include those that may be imported. Maximum—three raptors.

(9) Licensees may take raptors as young or fledglings from nests (unless specifically prohibited by commission regulations), or by traps or nets which are humane in their operation and use. Not more than one (1) young may be taken from one (1) nest by a permittee or permittees, and at least one (1) young must be left in the nest. The commission may close an area of the state to the taking of raptors at any time or designate other raptors which may not be taken. This regulation does not permit the removal of raptors in any national or state refuge or park or in any area in which local laws may prohibit such activity. Trapping raptors is permitted only between September 1 and February 1. Limitations on taking of raptors.

(10) Raptors shall not be used to intentionally flush or harass big game. Limitations on use of raptors.

(11) Raptors may not be loosed intentionally at protected mammals and birds. Game bird limits and all seasons and other regulations relating to such game birds must be obeyed.

(12) No licensee shall transfer ownership or possession of any raptor taken or possessed under the provisions of these regulations without notifying the Montana state fish and game department within ten (10) days after the date of transfer. Transfer. Notice.

HeinOnline -- 1971 vol. II 1257 1971

Licenses in possession.

(13) Licensees shall have in possession a valid falconer's license when engaged in the practice of falconry. In addition, falconers loosing raptors at game birds or unprotected birds or mammals shall have in possession a valid hunting license.

Nontransferable.

(14) Falconry license or permits are not transferable and may be revoked for due cause at any time by the Montana state fish and game department.

Sale of raptors prohibited.

Transport permit.

(15) No person shall sell or offer for sale any Montana raptors in the state of Montana. No persons shall transport any raptors out of the state except by permit issued by the Montana fish and game department.

Penalty for violation.

(16) Any person who violates any of the provisions of this act is guilty of a misdemeanor, and upon conviction thereof, shall be subject to prosecution pursuant to section 26-324.

Predatory hawks and owls—killing permitted.

(17) Predatory hawks and owls destroying livestock or poultry may be killed at any time by such livestock or poultry owners. Eagles may be killed in compliance with federal law and regulation.

Approved March 15, 1971.

CHAPTER NO. 310

An Act Amending Sections 50-101, 50-102, 50-108, and 50-118, R.C.M., 1947, Adding Section 50-119 and Repealing Sections 50-103, 50-104, 50-105, 50-106, 50-107, 50-109, 50-110, 50-111, 50-112, 50-113, 50-114, 50-115, 50-116, 50-117, R.C.M., 1947, to Update the Law so that it Conforms and is Equal to the Federal Metal and Nonmetallic Safety Act in Order that Montana May Qualify as and Have What is Known as a "State Approved Plan."

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 50-101, R.C.M., 1947, is amended to read as follows:

Employment of metal and nonmetallic mine inspectors.

"50-101. **Inspectors of** *metal and nonmetallic* **mines—***employment.* The industrial accident board shall *employ an adequate number of qualified metal and nonmetallic mine inspectors necessary for the enforcement of this act* and shall prescribe their *powers, duties and responsibilities.*"

HeinOnline -- 1971 vol. II 1258 1971

Section 2. Section 50-102, R.C.M., 1947, is amended to read as follows: Amending clause.

"50-102. **Duties of mine inspector—annual inspection.** *(a) The board is authorized at any time to cause to be made such inspections and investigations as it shall deem necessary in surface and underground mines which are subject to this act (1) for the purpose of obtaining, utilizing, and disseminating information relating to health and safety conditions in such mines, the causes of accidents involving bodily injury or loss of life, or the causes of occupational diseases originating therein, and (2) for the purpose of determining whether or not there is compliance with a health and safety standard or order issued under this act.* Authority of board to inspect mines—purposes.

(b) For the purpose of making any inspection or investigation authorized by this act, authorized representatives of the board shall have the right of entry to, upon, or through any mine which is subject to this act. Right of entry.

(c) If, upon any inspection of a mine which is subject to this act authorized representatives of the board find that the conditions or practices in the mine are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated, such representatives shall determine the extent of the area of such mine throughout which the danger exists, and thereupon issue an order requiring the operator of such mine to cause all persons, except the persons designated below, whose presence in such area is necessary to eliminate the danger described in such order, to be withdrawn from, and to be debarred from entering such area: Finding of danger. Determination of area. Order of evacuation. Exempt persons.

(1) Any person whose presence in such area is necessary in the judgment of the operator of the mine, to eliminate the danger described in the order.

(2) Any public official whose official duties require him to enter such area.

(3) Any legal or technical consultant, or any representative of the employees of the mines, who is a person qualified to make mine examinations, or is accompanied by such a person, and whose presence in such area is necessary, in the judgment of the operator of the mine, for the

HeinOnline -- 1971 vol. II 1259 1971

proper investigation of the conditions described in the order.

Finding of noncompliance.

(d) If, upon any such inspection or investigation, an authorized representative finds that there has been a failure to comply with a mandatory standard which is applicable to such mine, but that such failure to comply has not created a danger that could reasonably be expected to cause death or serious physical harm in such mine immediately or before the imminence of such danger can be eliminated, he shall find what would be a reasonable period of time within which such violation should be totally abated Notice fixing time for abatement. *and thereupon issue a notice fixing a reasonable time for the abatement of the violation. If, upon the expiration of such period of time as originally fixed or extended,* Findings. *the authorized representative finds that such violation has not been totally abated, and if he also finds that such period of time should not be further extended, he shall also* Area affected. *find the extent of the area which is affected by such violation; thereupon, the board shall make an order requiring* Order of evacuation. *the operator of such mine to cause all persons in such area, excepting the following persons whose presence in such area is necessary to abate the violation described in* Exempt persons. *the order, to be withdrawn from, and to be debarred from entering such area:*

(1) Any person whose presence in such area is necessary, in the judgment of the operator of the mine, to abate the violation described in the order.

(2) Any public official whose official duties require him to enter such area.

(3) Any legal or technical consultant, or any representative of the employees of the mine who is a person qualified to make examinations, or is accompanied by such a person, and whose presence in such area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions described in the order.

Requirements of findings and orders.

(e) Findings and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute a situation of imminent danger or a violation of a mandatory standard, and a description of the area of the mine throughout which persons must be withdrawn and debarred.

HeinOnline -- 1971 vol. II 1260 1971

(f) Each finding made and notice or order issued under this section shall be given promptly to the operator of the mine to which it pertains by the person making such finding or order, and all such findings, orders, and notices shall be in writing, and shall be signed by the person making them. A notice or order issued by an authorized representative pursuant to this section may be annulled, canceled, or revised by the authorized representative, and in case of a board order, the board may annul, cancel or revise the order.

Prompt service on mine operator.

Written and signed.

(g) The order of the duly authorized representative of the board shall remain in effect, but shall immediately be subject to review as provided in this act.

Orders subject to review.

(h) An operator notified of an order made pursuant to section 50-102 (c) may apply to the board for a hearing, revision, or annulment of such order. Whenever the board after such a hearing upon complaint, or upon its own motion, finds that danger throughout the area of such mine as set out in such order existed at the time of making the inspection, it shall make an order denying a revision or annulment; but, if it finds that such danger did not exist throughout the area of such mine, it shall make an order consistent with its findings, revising or annulling the order under review.

Notified operator may apply for hearing.

Board findings—orders.

(i) An operator notified of an order made pursuant to section 50-102 (d) may apply to the board for a hearing or revision of such order. If the board finds that there was no violation, it shall make an order annulling the order under review. If the board finds that there was such a violation, but such violation has since been abated, it shall make an order annulling the order under review. If the board finds that such violation was not totally abated, it shall make an order consistent with its findings.

Notified operator may apply for hearing.

Board findings—orders.

(j) In view of the urgent need for prompt decisions of matters submitted to the board under section 50-102, all actions which the board or its authorized representatives are required to take under this section shall be taken as rapidly as practical, consistent with adequate consideration of the issues involved."

Prompt decisions required.

Section 3. Section 50-108, R.C.M., 1947, is amended to read as follows:

Amending clause.

"50-108. **To what mines act is applicable.** *This act shall* apply to *all mines (except coal and lignite) and in-*

Application of act.

HeinOnline -- 1971 vol. II 1261 1971

dividuals, owners, lessors, lessees, agents, *partnerships, corporations,* managers, *operators, or employers* operating any *surface or underground metal or nonmetallic mines* in this state. *These individuals, owners, lessors, lessees, agents, partnerships, corporations, managers, operators, or employers operating any surface or underground metal or nonmetallic mines (excluding coal and lignite)* shall report the same to the *board,* state the name of the mine, the location of the same, the name of the company, person, or persons owning or operating the same, post-office address, and number of men employed."

Report to board required.

Amending clause.

Section 4. Section 50-118, R.C.M., 1947, is amended to read as follows:

Violations.

"50-118. **Violation of** *the* **act**—*penalties. (a) Whenever an operator (1) violates or fails or refuses to comply with any order, rule, or regulation issued under this act, or (2) interferes with, hinders, or delays the board or its authorized representatives in carrying out any duties under this act, or (3) refuses to admit an authorized representative of the board to any mine which is subject to this act, or (4) refuses to permit the inspection or investigation of any mine which is subject to this act, or an accident, injury, or occupational disease occurring in or connected with such a mine, or (5) refuses to furnish the board any information or report requested by the board and which may reasonably be necessary to carry out the provisions of this act, a civil action for preventive relief, including, but not limited to, an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the board in the district court for the county in which the mine in question is located or in which the mine operator has its principal office.*

Civil action—injunction.

Penalties for violations.

(b) Any person who knowingly (1) violates or fails or refuses to comply with any order, rule, or regulation issued under this act, or (2) interferes with, hinders, or delays the board or its authorized representatives in carrying out any duties under this act, or (3) refuses to admit an authorized representative of the board to any mine which is subject to this act, or (4) refuses to permit the inspection or investigation of any mine which is subject to this act, or of an accident, injury, or occupational disease occurring in or connected with such a mine, or (5) refuses to furnish the board any information or report

HeinOnline -- 1971 vol. II 1262 1971

requested by the board and which may reasonably be necessary to carry out the provisions of this act, shall be guilty of a misdemeanor, and shall upon conviction thereof be punished for each such offense by a fine of not less than one hundred dollars ($100), or more than three thousand dollars ($3,000), or by imprisonment in the county jail not exceeding six (6) months, or both. In any instance in which such offense is committed by a corporation, any officer or authorized representative of such corporation who knowingly permits such offense to be committed shall, upon conviction, be subject to the same fine or imprisonment, or both."

Section 5. Section 50-119. **Definitions.** "Authorized representative" means mine inspector or any other person employed or authorized by the industrial accident board to perform any and all duties under this act. "Board" means the industrial accident board of the state of Montana. "Corporation" means a body formed and authorized by law to act as a single person although consituted by one or more persons and legally endowed with various rights and duties including the capacity of succession. "Employee" means every person in this state, including a contractor other than an "independent contractor," who is in the service of an employer as hereinafter defined in or about any mine, mill, smelter, excavation, or quarry under any appointment or contract of hire, express or implied, oral or written, whether lawfully or unlawfully employed and whether the employment is casual or otherwise. "Employer" means every person, firm, partnership, corporation, or association, including an independent contractor, who has any person in service in or about any mine, mill, smelter, excavation, or quarry under any appointment or contract of hire, express or implied, oral or written. "Inspector" means a person or persons employed by the industrial accident board to inspect metallic and nonmetallic mines, mills, smelters, or quarries as provided in this act. "Mine" means any mine (or excavation) when clay, metallic ore, mineral, gypsum, or rock is dug or mined whether on surface or underground, where metal bearing ores or nonmetallic mineral commodities (exclusive of coal or lignite) are dug or mined whether at the surface or underground. "Notice" means a written notice, work order or correction notice issued by an authorized representative of the board, which notice specifies a violation (s) and

Definitions.
"Authorized representative."

"Board."

"Corporation."

"Employee."

"Employer."

"Inspector."

"Mine."

"Notice."

HeinOnline -- 1971 vol. II 1263 1971

directs or recommends corrective measures and may specify a definite date or time in which to abate said violation (s). "Occupational Health" means any of those health conditions that occur as a result of employment in a mine. "Order" means and includes any decision, rule, regulation, direction, requirement, or standard set, adopted, or issued by the board, or any other determination or decision made by the board.

"Occupational health."

"Order."

Repealing clause.

Section 6. Sections 50-103, 50-104, 50-105, 50-106, 50-107, 50-109, 50-110, 50-111, 50-112, 50-113, 50-114, 50-115, 50-116 and 50-117 are hereby repealed.

Approved March 15, 1971.

CHAPTER NO. 311.

An Act to Regulate Trade in Drugs by Prohibiting the Dispensing of Drugs by Medical Practitioners and their Participation in Profits from the Dispensing of Such Products, Except Under Certain Circumstances, and for Other Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. As used in this act:

"Medical practitioner."

(a) The term "medical practitioner" means any person licensed by the state of Montana to engage in the practice of medicine, dentistry, osteopathy, chiropody (podiatry), and in such practice to administer or prescribe drugs.

"Drug."

(b) The term "drug" means any article:

(1) Recognized in the official United States pharmacopeia, the official national formulary, or in any supplement to such pharamcopeia or formulary.

(2) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man.

(3) Intended to affect the structure or any function of the body of man.

(4) Intended for use as a component of any article described in clause (1), (2) or (3) of this paragraph, but such term does not include any device or any components of a device.

HeinOnline -- 1971 vol. II 1264 1971

(c) The term "device" means any instrument, apparatus, or contrivance intended: "Device."

(1) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man.

(2) To affect the structure or any function of the body of man.

(d) The term "pharmacy" means an office, pharmacy, drugstore, or other establishment which engages in the sale of drugs at retail. "Pharmacy."

(e) The term "community pharmacy", when used in relation to a medical practitioner, means a pharmacy situated within ten (10) miles of any place at which such medical practitioner maintains an office for professional practice. "Community pharmacy."

(f) The term "drug company" means any person engaged in the manufacturing, processing, packaging, or distribution of drugs, but such term does not include a pharmacy. "Drug company."

(g) The term "person" means any individual, and any partnership, firm, corporation, association, or other business entity. "Person."

(h) The term "state" means the state of Montana or any political subdivision thereof. "State."

Section 2. It shall be unlawful:

(a) For a drug company to give or sell to a medical practitioner any legal or beneficial interest in the company or in the income thereof with the intent or for the purpose of inducing such medical practitioner to prescribe to his patients the drugs of the company. The giving or selling of such interest by the company to a medical practitioner without such interest first having been publicly offered to the general public shall be prima facie evidence of such intent or purpose. Drug company prohibited from selling interest to medical practitioner.

(b) For a medical practitioner to acquire or own a legal or beneficial interest in any drug company, provided it shall not be unlawful for a medical practitioner to acquire or own such an interest solely for investment, and the acquisition of an interest which is publicly offered to the general public shall be prima facie evidence of its acquisition solely for investment. Medical practitioner prohibited from owning interest in drug company.

HeinOnline -- 1971 vol. II 1265 1971

Rebates from drug company prohibited.

(c) For a medical practitioner to solicit or to knowingly receive from a drug company, or for a drug company to pay or to promise to pay to a medical practitioner, any rebate, refund, discount, commission, or other valuable consideration for, on account of, or based upon the volume of wholesale or retail sales at any place of drugs manufactured, processed, packaged, or distributed by the company.

Dispensing of drugs prohibited.

Section 3. Except as otherwise provided by this section, it shall be unlawful for a medical practitioner to engage directly or indirectly in the dispensing of drugs.

Exceptions.

Nothing in this subsection shall prohibit:

(1) A medical practitioner from furnishing a patient any drug in an emergency.

(2) The administration of a unit dose of a drug to a patient by or under the supervision of such medical practitioner.

(3) Dispensing a drug to a patient by a medical practitioner where there is no community pharmacy available to the patient.

(4) The dispensing occasionally, but not as a usual course of doing business by a medical practitioner.

(5) A medical practitioner from dispensing drug samples.

Ownership of community pharmacy prohibited.

Section 4. (a) It shall be unlawful for a medical practitioner to own directly or indirectly a community pharmacy. Nothing this subsection shall prohibit a medical practitioner from dispensing a drug which he is permitted to dispense under stction 3.

Rebates from community pharmacy prohibited.

(b) It shall be unlawful for a medical practitioner directly or indirectly to solicit or to knowingly receive from a community pharmacy, or for a community pharmacy knowingly to pay or to promise to pay to a medical practitioner any rebate, refund, discount, commission, or other valuable consideration for, on account of, or based upon income received or resulting from the sale or furnishing by such community pharmacy of drugs to patients of any medical practitioner.

Duties of county attorney—proceedings.

Section 5. It shall be the duty of the county attorneys in the counties of the state, under the direction of the attorney general, to institute appropriate proceedings to

HeinOnline -- 1971 vol. II 1266 1971

prevent and restrain such violations. Such proceeding may be by way of complaint setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. Upon the filing of a complaint under this section and the service thereof upon the defendants named therein, the court shall proceed as soon as may be possible to the hearing and determination of the action.

Exemptions.

Section 6. The provisions of subsection (a) of section 4 shall not apply to a medical practitioner as to any interest which he owns as set forth in said subsection on the effective date of this act, provided that transfer of this interest to another person shall result in immediate termination of such exemption.

Approved March 15, 1971.

CHAPTER NO. 312.

An Act to Amend Section 84-301, R.C.M., 1947, to Include Trailers Affixed to Land, Mobile Homes, Clarification of Eligibility and Increasing Maximum Retirement Benefits Eligible for Classification of Property, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-301, R.C.M., 1947, is amended to read as follows:

Classifications of taxable property.

"84-301. **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows:

Mines and claims.

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Determination of value.

HeinOnline -- 1971 vol. II 1267 1971

Personal property.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds except mobile homes, boats and all watercraft, harness, saddlery and robes and except as provided in Class Five (b) of this section, all poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by all persons, firms, corporations, and other organizations which are engaged in the business of furnishing telephone communications, exclusively to rural areas, or to rural areas and cities and towns provided that any such city or town has a population of eight hundred (800) persons or less; and provided further, that the average circuit miles for each station on the system is more than one and one-quarter (1¼) miles.

Rural communications equipment.

Livestock poultry, merchandise, office and hotel furniture.

Class Three. Livestock, poultry and unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith, except mobile homes; and all office or hotel furniture and fixtures.

Land, town and city lots—trailers.

Machinery.

Class Four. (a) All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract or purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five, Class Seven *or Class Eight.*

Mobile homes.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those held by a distributor or dealer of mobile homes as part of his stock in trade, *and except as such property may be included in Class Eight.*

Moneys and credits.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms

HeinOnline -- 1971 vol. II 1268 1971

"moneys and credits" as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

Poles, lines and equipment of rural electrical and telephone co-operatives.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana.

Agricultural products.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both.

Change of classification.

Class Six. Property formerly included in this class is now classified by section 84-308 of the Revised Codes of Montana, 1947.

New industrial property—defined.

Class Seven. (a) All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state board of equalization, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961 within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking

Limitations.

Exclusions.

Application to state board.

HeinOnline -- 1971 vol. II 1269 1971

to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner and form as may be required by said board.

Freeport merchandise—defined.

(b) Freeport merchandise. Freeport merchandise means those stocks of merchandise manufactured or produced outside this state which are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state, for storage in transit prior to shipment to a final destination outside the state, and which have acquired a taxable situs within the state.

Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

Application to state board.

Any person, corporation, firm, partnership, association, or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner or form as may be required by said board.

Standards for assessment.

The state board of equalization shall establish standards, rules and regulations for the guidance of county assessors and assessing freeport merchandise.

Improvements on real property, trailers, mobile homes.

Value not more than $17,500.

Specified occupancy.

Class Eight. Any improvement on real property, *trailers affixed to land or mobile home belonging to any person who qualifies under any one or more of the hereinafter set forth categories,* valued at not more than seventeen thousand five hundred dollars ($17,500), which is owned *or under a contract for deed, and which is* actually occupied by:

(1) a widow sixty-two (62) years of age or older, whether with or without minor dependent children, *who qualifies under the income limitations of (4),* or

(2) a widower sixty-five (65) years of age or older, whether with or without minor dependent children, *who qualifies under the income limitations of (4),* or

(3) a widow with minor or dependent children regardless of age, *who qualifies under the income limitations of (4),* or

(4) a recipient of retirement benefits whose income from all sources is not more than *four thousand dollars*

HeinOnline -- 1971 vol. II 1270 1971

($4,000) for a single person and *five thousand two hundred dollars ($5,200)* for a married couple per annum. Provided, further, that one who applies for classification of property under this class must make an affidavit before the county assessor of the county in which said property is located, on a form as may be provided by the state board of equalization supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Affidavit before county assessor.

Form requirements.

Value shall not increase.

Class Nine All property not included in the eight (8) preceding classes."

Other property.

Section 2. This act is effective on its passage and approval.

Effective immediately.

Approved March 15, 1971

CHAPTER NO. 313

An Act to Amend Sections 82-3303 and 82-3306, R.C.M., 1947, by Adding Two Statutory Divisions to the Department of Administration; Requiring the Controller to Provide Central Data Processing, Duplicating and Copying Facilities to State Agencies in the Capitol Complex and to Establish Regulations Relating to the Procurement and Utilization of Data Processing Equipment, Programs and Data Processing Communications Networks.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 82-3303, R.C.M., 1947, is amended to read as follows:

Amending clause.

"82-3303. **Divisions within department.** The department shall consist of the following divisions:

Divisions—department of administration.

(1) Accounting

(2) Purchasing

HeinOnline -- 1971 vol. II 1271 1971

(3) Architecture and engineering

(4) General services

(5) Budget

(6) *Data processing*

(7) *Management systems*

Division head. Each division shall be administered by a division head who shall be appointed by, and serve at the pleasure of the controller."

Amending clause. Section 2. Section 82-3306, R.C.M., 1947, is amended to read as follows:

"82-3306. **Supervision of mailing, data processing, duplicating, copying, and automatic typing facilities.** Duties of controller. (1) The controller shall maintain and supervise any central mailing, *data processing, duplicating and copying* Cost records—billing. facilities for state agencies in the capitol area. *Cost records shall be maintained and agencies shall be billed for services received.*

Regulations by controller. (2) The controller shall establish regulations governing the procurement *and utilization* of data processing equipment, *programs and data processing communication networks,* duplicating and copying equipment, and equipment generally prescribed for automatic typing. The regu- Advisory committee. lations of the state controller shall be formulated with the advice of a committee consisting of a representative of the board of regents, a representative of the state highway commission, and two (2) members appointed by the other two, and one (1) of the appointed members shall have special knowledge or experience with data processing equipment and one (1) shall have special knowledge or ex- Purchase and location. perience with the other named office equipment. Within these regulations the controller shall supervise the procurement and location of the herein named equipment for all state agencies."

Approved March 15, 1971

CHAPTER NO. 314

An Act to Amend Section 25-501, R.C.M., 1947, as amended, to Increase Salaries of Certain Elected State Officials.

HeinOnline -- 1971 vol. II 1272 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 25-501, R.C.M., 1947, is amended to read as follows: Amending clause.

"25-501. **Salaries of certain elected state officials.** The annual salaries paid to certain elected officials of the state of Montana shall be as follows: Annual salaries—elected officials.

Governor	*$25,000*
Chief justice of the supreme court	*$24,000*
Justices of the supreme court, each	*$22,500*
Attorney general	*$19,000*
State auditor	*$15,000*
Superintendent of public instruction	*$17,500*
Railroad commissioner	*$14,000*
State treasurer	*$15,000*
Secretary of state	*$15,000*
Clerk of the supreme court	$11,500

Approved March 15, 1971

CHAPTER NO. 315

An Act Providing that Minors May Give Legal Consent to Obtain Psychiatric or Psychological Counseling Where Need for Such Counseling is Urgent; That Such Consent Shall Be Binding on the Minor and Not Subject to Later Disaffirmance by Reason of Such Minority; that the Consent of No Other Person Shall Be Necessary in Order to Authorize Care or Services Provided to Such Minor; Providing that Physicians or Licensed Psychologists Who Provide Care or Services Under the Terms of This Act Shall Incur No Civil or Criminal Liability, Except that Such Immunity Shall Not Apply to Negligent Acts or Omissions.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The consent to the providing of psychiatric or psychological counseling by a physician or psychologist licensed to practice in this state, under circumstances where the need for such counseling is urgent in the opinion of the physician or psychologist involved, because of danger to the life, safety or property of a minor or of other person or persons, and the consent of the spouse, parent, custodian or guardian of the said minor Validation of minor's consent to psychological counseling.

HeinOnline -- 1971 vol. II 1273 1971

cannot be obtained within a reasonable time to offset the said danger to life or safety, when executed by the said minor shall be valid and binding as if the said minor had achieved his or her majority, that is, such minor shall be deemed to have and shall have the same legal capacity to act, and the same legal obligations with regard to the giving of such consent, as a person of full legal age and capacity, the infancy of said minor and any contrary provisions of law notwithstanding, and such consent shall not be subject to later disaffirmance by reason of such minority; and the consent of no other person or persons (including, but not limited to a spouse, parent, custodian or guardian) shall be necessary in order to authorize the psychiatric or psychological counseling to such minor, provided, however, that no parent shall be obligated for the cost of such counseling without his consent.

Legal capacity.

Limitation of liability.

Section 2. In any case arising under the provisions of this act the physician or licensed psychologist who provides the psychiatric or psychological counseling services shall incur no civil or criminal liability by reason of having provided the counseling services, but such immunity shall not apply to any negligent acts or omissions.

Approved March 15, 1971

CHAPTER NO. 316

An Act Providing for the Conservation of the Health of Workers of the State; Providing for Prevention, Abatement, and Control of Occupational Diseases; Providing Penalties for Violation; and Repealing Sections 69-4201, 69-4202, 69-4203, and 69-4205, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

"Occupational Health Act of Montana.

Section 1. **Short Title.** This act shall be known and may be cited as the "Occupational Health Act of Montana".

Public policy—protection of human health and safety.

Section 2. **Declaration of policy and purpose.** (1) It is hereby declared to be the public policy of this state and the purpose of this act to achieve and maintain such conditions at the work place as will protect human health and safety, and to the greatest degree practicable, foster the comfort and convenience of the workers at any work

HeinOnline -- 1971 vol. II 1274 1971

place of this state and enhance their productivity and well-being.

(2) To these ends it is the purpose of this act to provide for a coordinated statewide program of abatement and control of occupational diseases, for an appropriate distribution of responsibilities among the state and local units of government, and to provide a framework within which all values may be balanced in the public interest. Purpose—abatement and control of occupational diseases.

Section 3. **Definitions.** As used in this act: Definitions.

(1) "Air contaminant" means fumes, dust, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof. "Air contaminant."

(2) "Emission" means a release into the workspace atmosphere of air contaminants or pollutants. "Emission."

(3) "Occupational disease" means an illness, impairment or disability that: "Occupational disease."

(a) Arises from the person's employment.

(b) Is caused by exposure to a substance or industrial practice which is hazardous to health.

(c) Has symptoms of an industrial disease which is known to have resulted from the same type of exposure in other cases.

(d) Is not the result of a person's contact or activities outside his employment.

(4) "Worker" is a person gainfully employed at any place. "Worker."

(5) "Work place" is any place or location where a person is gainfully employed. "Work place."

(6) "Occupational health" is a field of specialization concerned with those problems of health maintenance, productivity and well-being of industrial workers which are related to and affected by the conditions of work and by the stress of the industrial environment. "Occupational health."

(7) "Threshold limit values" shall mean airborne concentrations of substances to which it is believed that nearly all workers may be repeatedly exposed day after day without adverse effect. "Threshold limit values."

HeinOnline -- 1971 vol. II 1275 1971

"Pollutant." (8) "Pollutant" shall mean air contaminants, heat, noise, vibration and ionizing radiation and nonionizing radiation.

"Sanitary facilities." (9) "Sanitary facilities" shall mean toilets, showers, dressing rooms, lunch rooms, sewage disposal systems and potable water systems.

"Department." (10) "Department" shall mean the Montana state department of health.

"Board." (11) "Board" shall mean the Montana state board of health.

"Person." (12) "Person" means any individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the state, trust, estate or any other legal entity.

"Advisory committee." (13) "Advisory committee" means the occupational health advisory committee created by this act.

"Director." (14) "Director" means the director of the occupational health program, a position created by this act.

"Executive officer." (15) "Executive officer" means the chief administrative officer of the state department of health.

Administration by state department of health. Section 4. **Administration — state department of health.** Except as otherwise provided, the department, acting under the guidance of the board as to matters of policy, is responsible for administration of the provisions of this act.

Appointment of director—duties and powers. The executive officer shall appoint a director of the occupational health program to perform the duties and powers conferred upon the department by this act. The director shall meet requirements established by the board.

Delegation. The executive officer may delegate to any employee of the department such duties and functions as he deems necessary for the proper and efficient administration of this act, and the executive officer shall have the authority with the approval of the board and within the limitation of funds, to hire additional employees and to discharge same for cause.

Personnel.

Seven member advisory committee created. Section 5. (1) There is hereby created an occupational health advisory committee hereinafter called the advisory committee. The advisory committee shall consist of seven (7) members as follows:

(a) A representative of labor.

HeinOnline -- 1971 vol. II 1276 1971

(b) A representative of agriculture.

(c) A representative of the manufacturing industry.

(d) A practicing physician licensed in Montana.

(e) A practicing dentist licensed to practice in Montana.

(f) A practicing registered professional engineer.

(g) A lay person.

The chairman shall be elected by the advisory committee from among this number. Chairman.

(2) Members are appointed by the governor with the advice and consent of the senate. The terms of members shall be four (4) years except that the two (2) initially appointed members shall serve for one (1) year; two (2) shall serve for two (2) years; two (2) shall serve for three (3) years and one (1) shall serve for four (4) years as designated by the governor at the time of making the appointment. Appointment by governor. Terms of office.

(3) The seven (7) members appointed by the governor to serve on the advisory committee shall each be paid, in addition to actual travel expense, twenty-five dollars ($25) per day for each day of actual services in the performance of their duties; and all members of the advisory committee shall be reimbursed for travel and other necessary expenses incurred in their official duties as members of the advisory council. The expense and per diem of the members who are appointed by the governor shall be paid from funds made available to the department. Per diem $25—expenses.

(4) The advisory committee shall hold at least two (2) regular meetings each calendar year and shall keep a summary record of its proceedings which shall be open to the public for inspection. Special meetings may be called by the chairman and must be called by him upon receipt of a written request signed by two (2) or more members of the advisory committee. Notice of the time and place for all meetings shall be given in advance to each member of the advisory committee by the secretary. A majority of the members of the advisory committee shall constitute a quorum. At least two meetings each year. Records. Special meetings. Notice. Quorum.

(5) The secretary of the advisory committee shall be a member of the staff of the state department of health, Secretary.

HeinOnline -- 1971 vol. II 1277 1971

Duties.

designated by the executive officer. The secretary shall keep all records of meetings of, and actions taken by, the committee. He shall keep the advisory committee advised as to actions taken by persons in response to recommendations and orders issued under authority of this act and shall perform other duties as determined by the advisory committee, not inconsistent with rules, regulations and policies adopted by authority of this act or specific authority otherwise given the advisory committee.

Advisory duties.

(6) The advisory committee may consider standards, rules, and regulations as provided in this act and any other matter related to the purposes of the act, which may be submitted to it by the board. It may make recommendations to the board on its own initiative concerning the administration of this act.

Powers of board.

Section 6. **Powers of board.** In addition to any other powers conferred on it by law, the board shall:

Rules.

(1) Adopt, amend, and repeal rules implementing and consistent with the provisions of this act.

Hearings.

Hearing officer.

Subpoena.

Attorney.

Reporter.

(2) Hold hearings relating to any aspect of or matter in the administration of this act, at any place or places designated by the board. The board may designate the director as the hearing officer at any hearing set by the board and authorize him to make rulings on evidence and conduct the hearing. The board or the director as hearing officer may compel the attendance of witnesses and the production of evidence at hearings. The board shall designate an attorney to assist in conducting hearings and shall appoint a reporter who shall be present at all hearings and take full stenographic notes of all proceedings thereat, transcripts of which will be available to the public at cost.

Orders.

(3) Issue such orders as may be necessary to effectuate the purposes of this act and enforce them by all appropriate administrative and judicial proceedings.

Access to records.

(4) Require access to records relating to emissions.

Expert assistance.

(5) Secure necessary scientific, technical, administrative, and operational service, including laboratory facilities, by contract or otherwise.

Comprehensive plans.

(6) Prepare and develop a comprehensive plan or

HeinOnline -- 1971 vol. II 1278 1971

plans for the prevention, abatement, and control of occupational disease.

(7) Encourage voluntary cooperation by persons and affected groups to achieve the purpose of this act. Cooperation.

(8) Encourage and conduct studies, investigations, and research relating to occupational diseases and their causes, effects, preventions, abatement, and control. Studies and research.

(9) Determine by means of field studies and sampling the degree of health hazard at any work place in the state. Degree of health hazard.

(10) Establish threshold limit values of airborne contaminants for the state as a whole within ninety (90) days of passage of this act. Threshold limit values.

(11) Collect and disseminate information and conduct educational and training programs relating to the prevention and control of occupational diseases. Information and training.

(12) Advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate and interlocal agencies, the United States, and any interested persons or groups. Cooperation with other agencies.

(13) Accept, receive, and administer grants or other funds or gifts from public or private agencies, including the United States for the purpose of carrying out any of the functions of this act. Funds received by the board pursuant to this section shall be deposited in the state treasury to the account of the board. Gifts and grants.

Section 7. **Permits.** (1) The board may, by rule or regulation, prohibit the installation, alteration, or use of any machine, equipment, device or other article which it finds may cause or contribute to occupational disease or which is intended primarily to prevent or control occupational disease, unless a permit therefor has been obtained from it. Board may require permit.

(2) The board may require that applications for such permits shall be accompanied by plans, specifications, and such other information at it deems necessary. Applications.

(3) The board shall provide for the issuance, suspension, revocation, and renewal of any permits which it may require pursuant to this section. Permits.

HeinOnline -- 1971 vol. II 1279 1971

Decision within 90 days.

(4) If a permit is required, the board must decide within ninety (90) days after receiving application therefor, whether or not the permit will issue. If no decision is rendered within that time, permission shall be deemed to have been denied.

Authority to inspect.

Section 8. **Inspection.** (1) Any duly authorized officer, employee, or representative of the board may enter and inspect, at any reasonable time, any property, premises or place, except a private residence, where any person or persons are, or will be, employed to ascertain the state of compliance with this act and rules in force pursuant thereto.

Refusal of access prohibited.

(2) No person shall refuse entry or access to any authorized representative of the board who requests entry for purposes of inspection, and who presents appropriate credentials. No person shall obstruct, hamper, or interfere with any such inspection.

Report on request.

(3) At his request, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

Limitations on emissions.

Section 9. **Emissions prohibited.** (1) The board may establish the limitations of the levels, concentrations, or quantities of emissions of various pollutants from any source necessary to prevent, abate or control occupational diseases. Except as otherwise provided in or pursuant to this section, such levels, concentrations, or quantities shall be controlled and no emissions in excess thereof shall be lawful. The board may also establish standards for sanitary facilities and lunchrooms.

Standards.

Measuring emissions.

(2) The board may by rule use any widely recognized measuring system for measuring emissions of pollutants.

Federal standards.

(3) Should federal minimum standards of industrial hygiene or occupational health be set by federal law, the board may, if necessary, set more stringent standards by rule or regulation.

Section 10. **Enforcement.** (1) Whenever the director has reason to believe that a violation of any provision of this act or rule made pursuant thereto has occurred, he may cause written notice to be served upon the alleged violator or violators, and the facts alleged to constitute a violation thereof, and may include an order to take necessary corrective action within a reasonable period of

Written notice to violators.

Order to correct.

HeinOnline -- 1971 vol. II 1280 1971

time stated in the order. Any such order shall become final unless, no later than thirty (30) days after the date of notice is received, the person or persons named therein request in writing a hearing before the board. Upon receipt of such a request, the board shall hold a hearing. Hearings.

(2) If, after a hearing held pursuant to subsection (1) of this section, the board finds that a violation or violations have occurred, it shall either affirm or modify any order previously issued, or issue an appropriate order or orders for the prevention, abatement, or control of the emissions involved or for the taking of such other corrective action as it may deem appropriate. If, after hearing on an order contained in a notice, the board finds that no violation is occurring, it shall rescind the order. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe time limits for particular action in preventing, abating, or controlling the pollutant. Board may issue orders.

(3) In lieu of issuing the order provided for in subsection (1) of this section, the board may either: Board alternatives.

(a) Require that the alleged violator or violators appear before it for a hearing at a time and place specified in a notice, and answer the charges complained of; or Hearing.

(b) Initiate action pursuant to section 16 of this act.

(4) Nothing in this act shall prevent the board from making efforts to obtain voluntary compliance through warning, conference, or any other appropriate means. Voluntary compliance.

(5) In connection with any hearing held pursuant to this section, the board may, and upon application by any party shall, compel the attendance of witnesses and the production of evidence on behalf of all parties. Subpoena.

Section 11. **Emergency procedure.** (1) Any other provisions of law to the contrary notwithstanding, if the director finds that a generalized hazard at any work place exists and that it creates an emergency requiring immediate action to protect human health, the director shall order persons causing or contributing to the hazard to reduce or discontinue immediately the emmissions creating the hazard. Upon issuance of any such order, the director shall fix a place and time, not later than seventy- Emergencies. Findings of director. Order.

HeinOnline -- 1971 vol. II 1281 1971

Hearing. two (72) hours thereafter, for a hearing to be held before the board. Not more than twenty-four (24) hours after the commencement of such hearing, and without adjournment thereof, the board shall affirm, modify, or set aside the order of the director.

Board action.

(2) In the absence of any such generalized condition as that referred to in subsection (1) of this section, if the director finds that emissions from any operation is causing imminent danger to human health, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately, without regard for the provisions of section 10 of this act. In such event, the requirements for hearing and affirmance, modification, or setting aside of orders provided in section 10 shall apply.

Findings of director. Order.

Board action.

Other emergency powers not limited.

(3) Nothing in this section shall be construed to limit any power which the governor or any other officer may have to declare an emergency and act on the basis of such declaration, whether such power is conferred by statute or constitutional provisions or inheres in the office.

Application for variance.

Section 12. **Variances.** (1) Any person who owns or is in control of any plant, building, structure process or equipment may apply to the board for an exemption or partial exemption from rules or regulations governing the quality, nature, duration, or extent of emissions of pollutants. The application shall be accompanied by such information and data as the board may require. The board may grant such exemption or partial exemption if it finds that:

Findings of board—exemptions.

(a) The emissions occurring or proposed to occur do not constitute an immediate danger to the health and safety of the worker.

(b) Compliance with the rules and regulations from which exemption is sought would produce hardship without equal or greater benefits to the worker.

Public hearing—notice.

(2) No exemption or partial exemption shall be granted pursuant to this section except after public hearing on due notice and until the board has considered the relative interests of the applicant, and the worker or workers involved.

HeinOnline -- 1971 vol. II 1282 1971

(3) No exemption or partial exemption pursuant to this section shall be granted for a period to exceed one (1) year, but any such exemption or partial exemption may be renewed for like periods if no complaint is made to the board on account thereof or if, such complaint having been made and duly considered at a public hearing held by the board on due notice, the board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the exemption or partial exemption. Immediately prior to application for renewal the applicant shall give public notice of such application in accordance with rules and regulations of the board. Any renewal pursuant to this subsection shall be on the same grounds and subject to the same limitations and requirements as provided in subsection (a) of this section.

One year exemption.

Renewal.

Hearing—notice.

Application.

Public notice.

(4) An exemption, partial exemption or renewal thereof shall not be a right of the applicant or holder thereof but shall be in the discretion of the board. However, any person adversely affected by an exemption, partial exemption or renewal granted by the board may obtain judicial review thereof as provided by section 13 of this act.

Judicial review.

(5) Nothing in this section and no exemption, partial exemption or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of section 11 of this act to any person or his property.

Emergency procedures not limited.

Section 13. **Hearings and judicial review.** (1) No rule or amendment or repeal thereof shall take effect except after public hearing on due notice, and after the advisory committee has been afforded not less than thirty (30) days prior to publication of the proposed text to comment thereon. Such notice shall be given by public advertisement not less than twenty (20) or more than thirty (30) days prior to the date set for such hearing.

Public hearing—notice.

Consideration by advisory committee.

Publication of notice.

(2) Nothing in this section shall be construed to require a hearing prior to the issuance of an emergency order pursuant to section 11 of this act.

Emergency order not limited.

(3) Any person aggrieved by any order of the board

Rehearing—grounds.

HeinOnline -- 1971 vol. II 1283 1971

may apply for rehearing upon one (1) or more of the following grounds, and upon no other grounds:

(a) The board acted without or in excess of its powers.

(b) The order was procured by fraud.

(c) The order is contrary to the evidence.

(d) The applicant has discovered new evidence, material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.

Petition—form.

(e) Competent evidence was excluded to the prejudice of the applicant. The petition must be in such form and filed in such time as the board shall prescribe.

Appeal to district court.

(4) (a) Within thirty (30) days after the application for rehearing is denied, or, if the application is granted, within thirty (30) days after the decision on the rehearing, any party aggrieved thereby may appeal to the district court of any judicial district of the state which is the situs of property affected by the order.

Notice of appeal—service.

(b) The appeal shall be taken by serving a written notice of appeal upon the executive officer of the board, which service shall be made by the delivery of a copy of the notice to such officer, and by filing the original with the clerk of the court to which the appeal is taken. Immediately upon service upon the board, the board shall certify to the district court the entire record and proceedings, including all testimony and evidence taken by the board. Immediately upon receiving the certified record, the district court shall fix a day for filing of briefs and hearing arguments on the cause, and shall cause a notice of the same to be served upon the board and the appellant.

Board shall certify record to district court.

Court shall fix date.

Determination by court.

(c) The court shall hear and decide the cause upon the record of the board. The court shall determine whether or not the board regularly pursued its authority, whether or not the findings of the board were supported by substantial competent evidence and whether or not the board made error of law prejudicial to the appellant.

Appeal to supreme court.

(5) Either the board or the person aggrieved may appeal from the decision of the district court to the supreme court. The proceedings before the supreme court shall be limited to a review of the record of the hearing before

HeinOnline -- 1971 vol. II 1284 1971

the board and of the district court's review of that record.

Records and information shall be confidential.

Section 14. **Confidentiality of records.** (1) Any records or other information concerning pollutants or operations which are furnished to or obtained by the board, and which, as certified by the owner or operator, relate to production or sales figures or to processes or production unique to the owner or operator or which would tend to affect adversely his competitive position, shall be only for the confidential use of the board in the administration of this act, unless the owner shall expressly agree to their publication or availability to the general public.

Waiver.

Analyses and summaries not limited.

(2) Nothing contained in this section shall be construed to prevent the use of such records or information by the board in compiling or publishing analyses or summaries relating to the general condition at the work place, provided that such analyses or summaries do not identify any owner or operator or reveal any information made otherwise confidential by the provisions of this section.

Federal aid.

Section 15. **State and federal act.** The department may make application for, receive, administer, and expend any federal aid for the control of occupational diseases or the development and administration of industrial hygiene programs related to occupational disease control, provided that any such application is first submitted to and approved by the board. The board shall approve any such application if it is consistent with this act and any other applicable requirements of law.

Penalties for violations.

Section 16. **Penalties.** (1) Any person who violates the provisions of this act relating to limitations of levels, concentrations, or quantities of emissions of various pollutants from any source determined as provided herein to be necessary to prevent, abate, or control occupational diseases (unless in compliance with this act) shall be guilty of an offense and subject on account thereof to a fine not to exceed one thousand dollars ($1,000). Each day of violation shall constitute a separate offense.

Other remedies.

(2) Proceedings under this section shall not be a bar to enforcement of this act, or of rules or orders made pursuant thereto, by injunction or other appropriate remedy. The board may institute and maintain in the

HeinOnline -- 1971 vol. II 1285 1971

name of the state any and all such enforcement proceedings.

Civil actions not limited.

(3) Nothing in this act shall be construed to abridge, limit, impair, create, enlarge, or otherwise affect substantively or procedurally the right of any person to damage or other relief on account of injury to persons or property and to maintain any section of other appropriate proceeding therefor.

Deposit of fines.

(4) All fines collected shall be deposited to the state general fund.

Severability clause.

Section 17. **Severability.** It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one (1) or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Repealing clause.

Section 18. Sections 69-4201, 69-4202, 69-4203 and 69-4205, R.C.M., 1947, are hereby repealed.

Approved March 15, 1971

CHAPTER NO. 317

An Act to Amend Sections 84-301 and 84-302, R.C.M., 1947, Providing a Classification for One Hundred Percent Disabled Veterans.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-301, R.C.M., 1947, is amended to read as follows:

"84-301. **Classification of property for taxation.** Classification of taxable property. For the purpose of taxation the taxable property in the state shall be classified as follows:

Mines and claims.

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of

Determination of value.

HeinOnline -- 1971 vol. II 1286 1971

equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Personal property.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power driven cars, vehicles of all kinds except mobile homes, boats and all watercraft, harness, saddlery and robes and except as provided in Class Five (b) of this section, all poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by all persons, firms, corporations, and other organizations which are engaged in the business of furnishing telephone communications, exclusively to rural areas, or to rural areas and cities and towns provided that any such city or town has a population of eight hundred (800) persons or less; and provided further, that the average circuit miles for each station on the system is more than one and one-quarter (1 1/4) miles.

Rural telephone equipment.

Livestock, poultry, merchandise, business furniture and fixtures.

Class Three. Livestock, poultry and the unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith, except mobile homes; and all office or hotel furniture and fixtures.

Land, town and city lots, trailers.

Class Four. (a) All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract or purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five or Class Seven.

Manufacturing and mining machinery, fixtures and supplies.

Mobile homes.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those held by a distributor or dealer of mobile homes as part of his stock in trade.

HeinOnline -- 1971 vol. II 1287 1971

Moneys and credits.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms "moneys and credits" as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

Exemption.

Rural co-operative electrical and telephone equipment.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana.

Agricultural products.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both.

Disabled veteran's dwelling.

(d) The dwelling house, and the lot on which it is erected, owned and occupied by any resident of the state, who has been honorably discharged from active service in any branch of the armed forces, who is rated one hundred percent (100%) disabled due to a service-connected disability by the United States veterans administration or its successors.

In the event of the veteran's death, the dwelling house, and the lot on which it is erected, so long as the widow remains unmarried and the owner and occupant of the property, shall remain within this classification.

Reclassification.

Class Six. Property formerly included in this class is now classified by section 84-308 of the Revised Codes of Montana, 1947.

New industrial property—defined.

Class Seven. (a) All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state board of equalization, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961 within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant

HeinOnline -- 1971 vol. II 1288 1971

or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner and form as may be required by said board.

Limitations.

Exemptions.

Industrial operation for three years or more.

Application to state board of equalization.

(b) Freeport merchandise. Freeport merchandise means those stocks of merchandise manufactured or produced outside this state which are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state, for storage in transit prior to shipment to a final destination outside the state, and which have acquired a taxable situs within the state.

Freeport merchandise—defined.

Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

Any person, corporation, firm, partnership, association, or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner or form as may be required by said board.

Application to state board.

The state board of equalization shall establish standards, rules and regulations for the guidance of county assessors and assessing freeport merchandise.

Standards, rules and regulations.

HeinOnline -- 1971 vol. II 1289 1971

Improvements on real property—$17,500 limitation—certain owner-occupants.

Class Eight. Any improvement on real property valued at not more than seventeen thousand five hundred dollars ($17,500), which is owned and actually occupied by a widow, with or without minor or dependent children, or by:

(1) a widow sixty-two (62) years of age or older, whether with or without minor dependent children, or

(2) a widower sixty-five (65) years of age or older, whether with or without minor dependent children, or

(3) a widow with minor or dependent children regardless of age, or

(4) a recipient of retirement benefits whose income from all sources is not more than three thousand three hundred dollars ($3,300) for a single person and four thousand five hundred dollars ($4,500) for a married couple per annum. Provided, further, that one who applies for classification of property under this class must make an affidavit before the county assessor of the county in which said property is located, on a form as may be provided by the state board of equalization supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Application—affidavit required.

Forms.

Requirements.

Value shall not increase.

Other property.

Class Nine. All property not included in the eight (8) preceding classes."

Amending clause.

Section 2. Section 84-302, R.C.M., 1947, is amended to read as follows:

Basis for taxes.

Percentages of value—schedule.

"84-302. **Basis for imposition of taxes.** As a basis for the imposition of taxes upon the different classes of property specified in the preceding section, a percentage of the true and full value of the property of each class shall be taken as follows:

Class 1. One hundred per cent (100%) of its true and full value.

HeinOnline -- 1971 vol. II 1290 1971

Class 2. Twenty per cent (20%) of its true and full value.

Class 3. Thirty-three and one-third percent (33⅓%) of its true and full value.

Class 4. Thirty per cent (30%) of its true and full value.

Class 5. Seven per cent (7%) of its true and full value.

Class 6. Forty per cent (40%) of its true and full value.

Class 7. Seven per cent (7%) of its true and full value.

Class 8. Fifteen per cent (15%) of its true and full value.

Class 9. Forty per cent (40%) of its true and full value."

Approved March 15, 1971

CHAPTER NO. 318

An Act to Amend Section 10-622, R.C.M. 1947, Relating to the Appointment, Removal and Salaries of Probation Officers for the Juvenile Departments of District Courts in the State of Montana. Providing for Salary Increases and Repealing All Acts and Parts of Acts in Conflict Herewith.

Section 1. Section 10-622, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"10-622. **Probation officers — appointments — removal — salaries.** In every judicial district of the state of Montana the judge thereof having jurisdiction of juvenile matters may appoint one *(1)* discreet person of good moral character, who shall be known as the chief probation officer of such district and who shall hold his office until removed by the court. Such officer shall receive for his services such sum as shall be specified by the court upon appointment, provided that the judge of the district court may employ him on a yearly salary not to exceed *ten thousand two hundred dollars ($10,200),* or on a per diem basis for the time actually and necessarily employed in perform- District judge shall appoint probation officer. Maximum annual salary $10,200. Per diem $40.

HeinOnline -- 1971 vol. II 1291 1971

Salary apportioned among counties.

ing the duties of the office *at the rate of forty dollars ($40) per day.* The salary of such officer shall be apportioned among and paid by each of said counties in which said officer shall be appointed to act, in proportion to the assessed valuation of such counties for the year then current, except that where such official is appointed for one *(1)* county, his salary shall be paid by that county.

District judge may appoint deputies.

Limitation on salaries.

The judge having jurisdiction of juvenile matters may also appoint such additional persons to serve as deputy probation officers as the judge deems necessary; their salaries to be fixed by the judge at the time of appointment, provided that such salaries shall not exceed ninety percent (90%) of the salary of the chief probation officer.

Expenses.

For all necessary travel incident to his official duties in connection with the investigation, supervision, and transportation of children, the probation officer shall, in addition to his official salary, be reimbursed for actual expenses incurred."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1971

CHAPTER NO. 319

An Act Making it Unlawful to Use Junked Motor Vehicles for Flood Control of a Stream or for Reinforcement of the Banks of a Stream.

Be it enacted by the Legislative Assembly of the State of Montana:

Use of junked motor vehicles prohibited.

Section 1. It is unlawful to place junked motor vehicles, or the body portion of junked motor vehicles, between high water channel banks of any stream or to reinforce banks of a stream.

Penalties for violations.

Section 2. Any person who violates the provisions of this act is guilty of a misdemeanor and upon conviction shall be fined not to exceed two hundred and fifty dollars ($250), imprisoned in the county jail for any term not to exceed thirty (30) days, or both.

Approved March 15, 1971.

HeinOnline -- 1971 vol. II 1292 1971

CHAPTER NO. 320

An Act Providing for the Transfer of Authority of State Owned Motor Vehicles to the Highway Commission; Providing for the Establishment of a State Motor Pool for Maintenance and Storage; Providing for Regulation and use of Vehicles; Providing for Lettering and Identification; Providing for Records; Providing for Exceptions; Establishing a Penalty and Repealing Sections 53-501, 53-503, 53-504, 53-505, 53-506, 53-507, 53-508 and 53-510, R.C.M. 1947, and Sections 53-511, 53-512 and 53-513, R.C.M. 1947, Enacted as Chapter 181, Laws of 1969.

Be it enacted by the Legislative Assembly of the State of Montana:

State highway commission—custodian of state vehicles.

Section 1. The state highway commission is hereby constituted the custodian of all motor vehicles owned or leased by the state of Montana or its boards, commissions or agencies operated out of any areas or locations where five (5) or more state vehicles or three (3) or more state agencies are located.

Rules and regulations.

Section 2. The state highway commission is hereby delegated the power and authority to formulate and enforce reasonable rules and regulations governing the use and operation of all motor vehicles used in the service of the state of Montana consistent with the terms of this act. The commission shall have the authority to assign the use of all state owned motor vehicles to state officers, departments, bureaus, institutions and commissions, or employees thereof. All actual costs for maintenance, service and storage to these state vehicles shall be paid to the highway commission by the individual state agencies involved.

Assignment of use.

Costs.

State vehicle seal.

Section 3. Every motor vehicle owned by the state of Montana shall have a seal eight (8) inches in diameter placed upon the vehicle in accordance with the rules and regulations adopted by the highway commission.

Private use prohibited.

Section 4. No state officer or employee shall use any state owned vehicle for his own personal and private use, nor shall he be compensated for driving his own vehicle except if such motor vehicle is on state business.

Travel regulations.

Section 5. The state highway commission shall adopt and formulate travel regulations providing:

HeinOnline -- 1971 vol. II 1293 1971

(a) Filing an application for travel showing necessity for trips, points to be visited, approximate time of departure and return;

(b) Filing a report upon completion of the trip, showing actual points reached, mileage traveled and car cost record data;

(c) Recording in the car operating history record book all items of expense incurred in the purchase of gas, oil, repairs, labor, storage, or service; and,

(d) That a decal be affixed to the instrument panel of every state owned vehicle with the following information contained thereon:

Dismissal for wrongful use.

Any officer or employee of the state government who uses or authorizes the use of any state owned motor propelled passenger carrying vehicle, or of any motor propelled passenger carrying vehicle leased by the state government, for other than official purposes shall be summarily removed from office by the head of the department of establishment concerned.

Requisitions for automobile purchases—state controller.

Section 6. All requisitions for automobile purchases shall be submitted to the state controller twice yearly, at such times as he may specify and no other requisitions for automobile purchases shall be accepted by him, unless the governor shall deem such purchase to be an emergency necessity.

Records required.

All automobile operating history records shall be entered in the office of the state controller, such records to include the purchase price of the vehicle and items of expense incurred in the operation of the vehicle to

Annual summary.

include gas, oil, repairs, labor, storage and service. A complete summary of the operating cost and history record of all state-owned vehicles and trucks shall be prepared for each fiscal year.

Exemptions.

Section 7. The provisions of this act shall not be applicable to any motor vehicle used in service of the governor, the attorney general or the highway patrol.

Penalties for violations.

Section 8. Any state officer or employee violating any of the provisions of this act shall upon conviction thereof be guilty of a misdemeanor, and such violator shall upon conviction be dismissed from state employment.

HeinOnline -- 1971 vol. II 1294 1971

Section 9. Sections 53-501, 53-503, 53-504, 53-505, 53-506, 53-507, 53-508 and 53-510, R.C.M. 1947, and sections 53-511, 53-512 and 53-513, R.C.M. 1947, enacted as chapter 181, laws of 1969, are hereby repealed. Repealing clause.

Approved March 15, 1971.

CHAPTER NO. 321

An Act to Amend Section 32-1126, R.C.M. 1947, Authorizing Peace Officers, Highway Patrol and Certain State Employees to Weigh Vehicles and Loads for Statutory Weight Compliance and Authorizing Maintenance of Weigh Stations on Intermittent or Continuous Schedules.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-1126, R.C.M. 1947, is amended to read as follows: Amending clause.

"32-1126. **Officers may weigh vehicles and require removal of excessive loads—badges and uniforms of highway employees.** Any peace officer, officer of the Montana highway patrol, or employees of the state highway commission are authorized and empowered to weigh *any vehicle as provided in section 32-1123, R.C.M. 1947,* either by means of portable or stationary scales, and may require that such vehicle be driven to the nearest scales in the event such scales are within two (2) miles. The peace officer, officer of the Montana highway patrol, or employees of the state highway commission may then require the driver to unload immediately such portion of the load as may be necessary to decrease the weight of such vehicle to conform to the maximum allowable weights specified in section 32-1123. Officers authorized to weigh vehicles. Officer may require unloading of excess weight.

Section 2. All commodities and material so unloaded as required by this section shall be cared for and removed from the highway right of way by the owner or operator of such vehicle at the risk of such owner or operator. Such removal shall be within such reasonable time as may be designated by the peace officer, officer of the highway patrol, or employees of the Montana state highway commission who has compelled such unloading. Removal by owner or operator.

HeinOnline -- 1971 vol. II 1295 1971

Authority to operator weigh stations—require weighing.

Section 3. The state highway commission is empowered to establish, maintain, and operate, either intermittently or on a continuous schedule, weigh stations and be empowered to require all vehicles, except passenger cars, and pick-up trucks under eight thousand (8,000) pounds G.V.W. to enter for the purpose of weighing and inspection for compliance with all laws pertaining to the operation and safety requirements.

Employees badge.

Section 4. Employees of the state highway commission engaged in the enforcement of this act shall wear and prominently display an identification badge or device with the employee's name and title shown thereon. The state highway commission may in its discretion authorize uniform dress for state highway commission employees engaged in the enforcement of this act."

Uniform dress.

Approved March 15, 1971.

CHAPTER NO. 322

An Act Amending Section 4-403, R.C.M. 1947, to Provide for the Issuance of Resort Liquor Licenses by the Montana Liquor Control Board and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 4-403, R.C.M. 1947, is amended to read as follows:

"4-403. **Issuance of retail liquor licenses—limit on number of licenses—retail wine licenses—lapse and cancellation.** (1) Except as otherwise provided by law, a license to sell liquor at retail in accordance with the provisions of this act and the regulations of the Montana liquor control board, may be issued to any person who shall be approved by a majority of the board as a fit and proper person to sell liquor; provided, that the number of retail liquor licenses which the board may issue shall be determined as follows:

License to sell liquor.

Limitations on number of licenses issued within five mile limit.

(a) The number of retail liquor licenses that the board may issue for premises situated within incorporated cities and incorporated towns and within a distance of five

HeinOnline -- 1971 vol. II 1296 1971

(5) miles from the corporate limits of such cities and towns shall be determined on the basis of population as shown by the most recent official United States census authorized by Congress, to wit: In incorporated towns of five hundred (500) inhabitants or less and within a distance of five (5) miles from the corporate limits of such towns, not more than two (2) retail liquor licenses; in incorporated cities or incorporated towns of more than five hundred (500) inhabitants and not over three thousand (3000) inhabitants and within a distance of five (5) miles from the corporate limits of such cities and towns, three (3) retail liquor licenses for the first one thousand (1000) inhabitants and one (1) retail liquor license for each additional one thousand (1000) inhabitants; in incorporated cities of over three thousand (3000) inhabitants and within a distance of five (5) miles from the corporate limits thereof, five (5) retail liquor licenses for the first three thousand (3000) inhabitants and one (1) retail liquor license for each additional one thousand five hundred (1500) inhabitants. The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of five (5) miles from the corporate limits thereof, shall govern the number of retail liquor licenses that may be issued for use within such cities and towns and within a distance of five (5) miles from the corporate limits thereof; provided, however, that where two (2) or more incorporated municipalities are situated within a distance of five (5) miles from each other, the total number of retail liquor licenses that may be issued for use in both of such municipalities and within a distance of five (5) miles from their respective corporate limits, shall be determined on the basis of the combined population of both of such municipalities and shall not exceed the foregoing limitations. The said distance of five (5) miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such city or town. Retail liquor licenses of issue on the date of the passage and approval of this act and which are in excess of the foregoing limitations shall be renewable, but no new licenses shall be issued in violation of such limitations; provided that such limitations shall not prevent the issuance of a nontransferable and nonassignable (as to ownership only)

Basis of population.

Incorporated towns.

Incorporated cities or towns.

Incorporated cities.

Number of inhabitants governs.

Combined population.

Measurement of five mile distance.

Present licenses renewable.

Exemptions.

HeinOnline -- 1971 vol. II 1297 1971

retail liquor license to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization, if such veterans' or fraternal organization has been in existence for a period of five (5) years or more prior to January 1, 1949. No incorporated city or incorporated town may by ordinance restrict the number of licenses that the board may issue; provided that no retail license may be issued by the board for any premises situated within any zone of a city or town wherein the sale of liquor is prohibited by ordinance, a certified copy of which has been filed with the board. The board shall have discretion to deny the issuance of a retail license if it shall determine that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.

Ordinances prohibiting sale.

Proper policing.

(b) The number of retail liquor licenses that the board may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of five (5) miles from the corporate limits thereof, shall be not more than one (1) license for each seven hundred fifty (750) population of the county, after excluding the population of incorporated cities and incorporated towns in such county.

Limitations on number of licenses issued outside five mile limit.

(2) From and after February 1, 1949, any retail license issued pursuant to this act not actually used in a going establishment for a period of ninety (90) days, shall automatically lapse. Upon determining the fact of nonuser for such period the board shall cancel such license of record and no portion of the fee paid therefor shall be refundable. The provisions of this subsection shall not apply to the license of any licensee whose premises are operated on a seasonal basis in connection with a bona fide dude ranch, park hotel, tourist facility or like business, provided such licensee has secured written authority from the board to close his licensed premises for a specified period of greater than ninety (90) days' duration, and providing further that should the liquor control board determine that such lapse was reasonably beyond the control of the licensee, then the lapse provision set out above shall not apply.

Lapse of unused licenses.

Exemption—seasonal operation.

Required authority to close for more than ninety days.

(3) Resort licenses. It is the intent and purpose of this act to encourage the growth of quality recreational resort facilities in undeveloped areas of the state and to

Resort retail liquor licenses.

HeinOnline -- 1971 vol. II 1298 1971

provide for the orderly growth of existing recreational sites by the establishment of resort areas within which retail liquor licenses may be issued by the board under the terms and as more particularly prescribed below. In addition to the licenses as otherwise set forth in this act, the board may issue resort retail liquor licenses in a resort area.

Resort area defined.

For the purposes of this section, a resort area is defined as a recreational facility meeting the qualifications determined by the board as hereinafter provided.

Determination by board—rules and regulations.

The board shall determine that the area for which licenses are to be issued is a resort area, such determination to be made under and pursuant to rules and regulations to be promulgated within one hundred eighty (180) days after the passage and approval of this act.

Required valuation —not less than $500,000.

In addition to the other requirements of this act, a resort area for the purposes of qualification for the issuance of resort retail liquor license must have a current actual valuation of resort or recreational facilities, including land and improvements thereon, of not less than five hundred thousand dollars ($500,000), at least half of which valuation must be for a structure or structures within the resort area, and must be under the sole ownership or control of one person or entity at the time of the filing of the resort area plat referred to in the next paragraph.

Sole ownership.

Control defined.

The word control shall mean lands held under lease, option, or permit.

Publication of notice of hearing.

Before first adopting such rules and regulations in regard to resort liquor licenses, the board shall publish a notice of the hearing to be held on said rules and regulations in a regularly published newspaper in the cities of Billings, Bozeman, Butte, Great Falls, Helena, Miles City, Kalispell and Missoula, Montana, said publication to be published in said newspapers at least once a week for four consecutive weeks, the last of said publications being at least ten (10) but not more than thirty (30) days prior to the date set for said hearing, which shall be held in Helena, Montana, at a time and place designated by the board.

Resort area plat must be filed.

The resort area must be determined by the resort developer or land owner by a plat setting forth the resort boundaries designating the ownership of the lands within the resort area which plat must be verified by the resort developer or land owner, and filed with the board prior to the filing of any applications by individuals for licenses

HeinOnline -- 1971 vol. II 1299 1971

Location—design. *within the resort area. Such plat must show the location and general design of the buildings, and other improvements to be built in said area in which resort retail liquor licenses are to, or may, be located. A master plan for the development of the said area may be filed by the resort developer in satisfaction of this section.*

Master plan may be filed.

Public hearing. *Upon such filing the board shall forthwith schedule a public hearing to be held in Helena, Montana, to determine whether the facility proposed by the resort developer or land owner is a resort area within the meaning of the rules and regulations of the board. At least thirty (30) days prior to the date of the hearing, the board shall publish notice thereof with a description of the location of the proposed resort area in a newspaper published in the county or counties in which the resort is located, once a week for four (4) consecutive weeks. Each resort developer or land owner shall, at the time of filing his application, pay to the board an amount sufficient to cover the costs of said publication. Persons may present statements to the board at the hearing in person or in writing in opposition or support of the plat. Within thirty (30) days of the hearing the board shall accept or reject the plat. If rejected the board must state its reasons and set forth the conditions, if any, under which the plat will be accepted and the decision of the board may be reviewed pursuant to the review procedure set forth in section 4-425 herein.*

Publication of notice.

Costs.

Design within 30 days.

Review.

No boundary change after filing. *Once filed with the board, the boundaries of a resort may not be changed without full hearing as above provided and the prior approval of the board, which approval shall be according to public convenience and necessity.*

Applications for licenses. *When the board has accepted a plat and a given resort area has been determined, applications may then be filed with the board by persons for the issuance of resort retail liquor licenses within the said resort area. Each applicant must submit plans showing the location, appearance and floor plan of the premises for which application for a license is made.*

Letter of intent. *If an applicant otherwise qualifies for a resort license but the premises to be licensed are still in construction, or are otherwise incomplete at the time of such application, the board shall issue a letter stating that the license will be*

HeinOnline -- 1971 vol. II 1300 1971

issued at such time as the qualifications for a licensed premises have been met, setting forth such time limitations and requirements as the board may establish.

Restrictions on sale or transfer.

In addition to the restrictions on sale or transfer of a license as provided in section 4-410 herein, no resort retail liquor license may be sold or transferred for operation at a location outside of the boundaries of the resort area.

Annual fee—$2,000.

The annual fee for resort retail liquor licenses within a given resort area shall be two thousand dollars ($2,000) for each such license.

Exemption.

A resort retail liquor license shall not be subject to the quota limitations set forth in section 4-403 (1) (a) above and a resort retail liquor license shall be issued by the board on the basis that the board has determined that such license is justified by public convenience and necessity, following a hearing as provided in section 4-407.1.

Severability clause.

If any clause, sentence, paragraph, section, or any part of this act shall be declared and adjudged to be invalid and/or unconstitutional, such invalidity or unconstitutionality shall not affect, impair, invalidate or nullify the remainder of this act."

Effective immediately.

Section 2. This act shall be effective upon passage and approval.

Approved March 15, 1971.

CHAPTER NO. 323.

An Act to Define, Control and Prohibit the Littering of Public and Private Property, Providing a Penalty Therefor, and Repealing Sections 32-1629, 32-1629.1, 32-1630 and 32-1631, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Intention to provide uniform prohibition of littering.

Section 1. It is the intention of the legislature by this act to provide for uniform prohibition throughout the state of any and all littering on public and private property, and to curb thereby the desecration of the beauty of the state and harm to health, welfare and safety of its citizens caused by individuals who litter.

HeinOnline -- 1971 vol. II 1301 1971

Unlawful to dump litter.

Section 2. It is unlawful for any person or persons to dump, deposit, throw or leave, or to cause or permit dumping, depositing, placing, throwing, or leaving of litter on any public or private property in this state, or any waters in this state, unless:

Exceptions.

Disposal designation.

(1) Such property is designated by the state or by any of its agencies or political subdivisions for the disposal of such material, and such person is authorized by the proper public authority to use such property;

Receptacles.

(2) Into a litter receptacle or container installed on such property;

Owner or tenant—consent.

(3) He is the owner or tenant in lawful possession of such property, or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of said tenant or owner.

"Litter" defined.

Section 3. The term "litter" as used herein shall mean all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances of every kind and description, including abandoned motor vehicles.

"Public or private property" defined.

Section 4. The phrase "public or private property" as used herein shall include, but not be limited to, the right-of-way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge or conservation or recreation area, and any residential or farm properties or timberlands.

Penalties for violations.

Section 5. Any person violating the provisions of section 2 of this act is guilty of a misdemeanor, subject to a minimum fine of ten dollars ($10) or imprisonment, or both, as in the case of misdemeanors, and, in lieu thereof, in the sound discretion of any court in which conviction is obtained, may be directed by the judge to pick up and remove from any public street or highway or public and private right-of-way, or public beach or public park, or, with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it has been established by competent evidence that he has deposited litter, any and all litter deposited thereon by anyone prior to the date of execution of sentence.

Litter dumped from vehicles—violation.

Section 6. Whenever litter is thrown, deposited,

HeinOnline -- 1971 vol. II 1302 1971

dropped or dumped from any motor vehicle, boat, airplane or other conveyance in violation of section 2 hereof, the operator of said conveyance shall be deemed prima facie to have violated this act.

Authority to enforce compliance.

Section 7. All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this act.

Maintenance of receptacles.

Signs.

Section 8. All public authorities having supervision of properties of this state are authorized, empowered and instructed to establish and maintain receptacles for the deposit of litter at appropriate locations where such property is frequented by the public, and to post signs directing persons to otherwise publicize the availability of litter receptacles and requirements of this act.

Litter control act.

Section 9. This act shall be known as the litter control law.

Severability clause.

Section 10. If any provision of this act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is unaffected.

Duty to post notices of act and penalties.

Section 11. It is the duty of the state highway commission to post notices of this act, and the penalties provided for, on the state and interstate highways at locations to be designated by the state highway commission.

Repealing clause.

Section 12. Sections 32-1629, 32-1629.1, 32-1630 and 32-1631, R.C.M., are hereby repealed.

Approved March 15, 1971.

CHAPTER NO. 324.

An Act Relating to Fees, Licenses and Certificates of Registrations to Be Paid by Various Members of the Cosmetology Profession, Adding Thereto a Registration Fee for Each Student Enrolling in a Registered Cosmetology School, Amending Section 66-815, R.C.M., 1947.

HeinOnline -- 1971 vol. II 1303 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 66-815, R.C.M., 1947, is amended to read as follows:

"66-815. *All fees, licenses and certificates of registration shall be paid to the Montana State Examining Board of Cosmetology not to exceed the following respective amounts as may be prescribed by the board. Each student enrolling in a registered cosmetology school shall pay a registration fee of three dollars and fifty cents ($3.50) to the Montana State Examining Board of Cosmetology.* Each applicant for examination to practice shall pay at the time of such application a fee of *twenty* dollars *($20). Each applicant for examination who is a graduate from a cosmetology school of this state may pay a fee of four dollars ($4) for a temporary license to practice as an operator in accordance with the provisions of this act. Each applicant for examination to teach shall pay at the time of such application a fee of thirty dollars ($30).* Each person practicing cosmetology as an operator shall pay a fee of *six* dollars *($6)* for the issuance of a license. Each applicant for a manager-operator license shall pay a fee of *ten* dollars *($10)* for the issuance of such a license. *Each applicant for itinerant license as a cosmetologist shall pay a fee of fifty dollars ($50).* Every person, firm, copartnership or corporation *owning, operating or conducting a cosmetological salon* shall pay the sum of *ten* dollars *($10)* for the issuance of the *certificate of registration.* Each person teaching *or instructing* cosmetology shall pay a fee of *ten* dollars *($10)* for the issuance of a license. Every person, firm, copartnership or corporation owning, operating or conducting a school of cosmetology shall pay the sum of *fifty* dollars *($50)* for a certificate of registration. *Every person, firm, copartnership or corporation owning, operating or conducting an advanced school of cosmetology shall pay the sum of fifty dollars ($50) for a certificate of registration. Every person, firm, copartnership or corporation owning, operating or conducting a teacher-training unit in a school of cosmetology shall pay the sum of fifty dollars ($50) for a certificate of registration. Duplicate licenses or certificates of registration shall be issued upon payment of two dollars ($2) and proof of necessity.* Such license *and registration* fees shall be paid annually in advance to the *Montana State Examining* Board *of Cosmetology.* No other or additional license or *registration* fee shall be imposed

Montana state examining board of cosmetology fees.

Student registration —$3.50.

Examination fee—$20.

Temporary license fee—$4.

Teacher examination fee—$30.

Operator license fee—$6.

Manager-operator license fee—$10.

Itinerant license fee—$50.

Salon fee—$10.

Teacher license fee—$10.

School fee—$50.

Advanced school fee—$50.

Teacher training fee—$50.

Duplicates—$2.

Annual payment.

Other fees prohibited.

HeinOnline -- 1971 vol. II 1304 1971

by any municipal corporation or other political subdivision of the state of Montana for the practice or teaching of cosmetology.''

Approved March 15, 1971.

CHAPTER NO. 325.

An Act to Amend Section 84-2102, R.C.M., 1947, to Provide for a Natural Gas Distributors' License Tax, of Five Hundred Seventy-Five Thousandths (.575) of One Cent for Each One Thousand (1,000) Cubic Feet of Natural Gas, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-2102, R.C.M., 1947, as amended by section 1, chapter 8, extraordinary session, Laws of 1969, is amended to read as follows:

"84-2102. **Natural gas distributors' license tax—amount—standard for measurement of gas distributed—persons not contemplated by act.** Every person engaged in or carrying on the business of distributing to consumers within this state, natural gas, produced, or not produced within this state, or engaged in or carrying on the business of owning, controlling, managing, leasing or operating within this state, any system or plant for the distribution of natural gas, produced, or not produced within this state, to consumers within this state for the purpose of use outside this state, or engaged in or carrying on the business of owning, controlling, managing, leasing or operating within this state, any system or plant for the distribution of natural gas, produced, or not produced within this state, to consumers within this state must, for the year beginning *January 1, 1969,* and each year thereafter when engaged in carrying on such business in this state, pay to the state treasurer for the exclusive use and benefit of the state of Montana, a license tax for engaging in and carrying on such business an amount equal to *five hundred seventy-five thousandths (.575)* of one (1) cent for each one thousand (1,000) cubic feet of such natural gas, produced within this state, or not produced within this state, and distributed by such person to consumers within this state, during such year, or conveyed

Natural gas distributors annual license tax payable to state treasurer beginning January 1, 1969.

Determination of amount of tax.

HeinOnline -- 1971 vol. II 1305 1971

through a pipeline to a point outside this state during such year, except in connection with the operating of natural gas wells from which the same was extracted or produced, or delivered by such person to any other person for sale; provided that the standard or base pressure to be used in the measurement of such gas so distributed for determining the amount of license tax imposed hereunder, shall be ten (10) ounces above an atmospheric pressure of fourteen (14) and four-tenths (4/10) pounds per square inch, and at a temperature of sixty (60) degrees Fahrenheit, regardless of the atmospheric pressure and temperature at the point of measurement, and all measurements of gas shall be reduced, by computation, to these standards no matter what may have been the pressure and temperature at which gas was actually produced or measured; provided, however, that nothing in this act shall be construed as requiring laborers, employees, hired or employed, by any person to work on or about, or in connection with any natural gas well property or business, to pay such license taxes, nor shall any work required to be done in prospecting, or in developing, or opening up any natural gas property or plant, be deemed to be carrying on of natural gas business, or engaging in the business of working or operating of a natural gas well or plant; provided, further, that if during any such work of developing any natural gas property, any marketable natural gas shall be extracted or produced and sold, then the same shall be deemed the carrying on of a natural gas business of distributing to consumers."

Exceptions.

Pressure standards for measurement.

Exemptions.

Section 2. This act is effective on its passage and approval.

Effective immediately.

Approved March 15, 1971.

CHAPTER NO. 326.

An Act to Amend Sections 84-2601 and 84-2602, R.C.M., 1947, to Provide for a Telephone Company License Tax, of One and Seven Hundred Twenty-Five Thousandths Percent (1.725%) of Gross Income in Excess of Two Hundred Fifty Dollars ($250), and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1971 vol. II 1306 1971

Amending clause.

Section 1. Section 84-2601, R.C.M., 1947, as amended by section 1, chapter 7, extraordinary session, Laws of 1969, is amended to read as follows:

Annual tax on gross income of telephone business beginning April 1, 1969.

"84-2601. **Annual tax levied on gross income of telephone business.** That on and after the first day of April, *1969,* there is hereby levied and shall be collected an annual tax of one and *seven hundred twenty-five thousandths* percent *(1.725%)* of the gross income, in excess of two hundred fifty dollars ($250) quarterly, derived from any telepone business within this state including the transmission of telepone messages in this state, over telephone lines *or by microwave electronic equipment,* in this state owned by any person, association or corporation; provided, however, that no bill, statement or account rendered or given any customer shall set out or contain, as a separate item, any amount on account or by reason of the license tax imposed by this act. Such annual license tax shall be paid in quarterly installments for the quarters ending respectively March 31, June 30, September 30, and December 31, in each year."

Customer statements.

Quarterly installments.

Amending clause.

Section 2. Section 84-2602, R.C.M., as amended by section 2, chapter 7, extraordinary session, Laws of 1969, is amended to read as follows:

Beginning June 30, 1969, quarterly installments must be filed.

"84-2602. **Statement and payment on gross income—certain business excluded.** Each and every person, association or corporation liable to tax under this act engaged in carrying on such telephone business in this state shall, within sixty (60) days after the end of each quarter, beginning with the quarter ending June 30, 1969, make out in duplicate and file with the state board of equalization, under oath, a statement in such form as the state board of equalization may require and prescribe, showing the total gross income of such person, association or corporation derived from the telephone business within this state including the transmission of telephone messages originating and terminating within this state, but excluding therefrom the gross income derived from the transmission of telephone messages passing through this state but both originating and terminating outside of this state and from those originating outside of, but terminating within this state and from those originating within but terminating outside of this state during the preceding quarter, and containing such other information as the state board of equalization may require; and

Form.

Showing of total gross income.

HeinOnline -- 1971 vol. II 1307 1971

Payment of tax—1.725%.

shall accompany such statement with the payment to the state board of equalization of a license tax in the amount equal to one and *seven hundred twenty-five thousandths* percent *(1.725%)*."

Effective April 1, 1971.

Section 3. This act is effective on April 1, 1971.

Approved March 15, 1971.

CHAPTER NO. 327

An Act to Amend Section 75-6107, R.C.M. 1947, Providing for Timely Hearing Upon Appeal.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-6107, R.C.M. 1947, is amended to read as follows:

Trustees may dismiss teacher for cause.

"75-6107. **Dismissal of teacher under contract.** The trustees of any district may dismiss a teacher before the expiration of his employment contract for immorality, unfitness, incompetence, or violation of the adopted policies of such trustees. Any teacher who has been dismissed may *in writing within ten (10) days* appeal such dismissal to the county superintendent; *following such appeal a hearing shall be held within ten (10) days.* If the county superintendent, after a hearing, determines that the dismissal by the trustees was made without good cause, he shall order the trustees to reinstate such teacher and to compensate such teacher at his contract amount for the time lost during the pending of the appeal."

Appeal within 10 days.

Hearing.

Determination by county superintendent.

Approved March 15, 1971.

CHAPTER NO. 328

An Act to Prescribe the Period of Limitations in Which Actions for Professional Negligence can be Commenced.

Be it enacted by the Legislative Assembly of the State of Montana:

Limitations on actions for malpractice—three years.

Section 1. Action for injury or death against a physician or surgeon, dentist, registered nurse, dispensing

HeinOnline -- 1971 vol. II 1308 1971

optician, optometrist, licensed physical therapist, podiatrist, psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, pharmacist, veterinarian, or a licensed hospital as the employer of any such person, based upon such person's alleged professional negligence, or for rendering professional services without consent, or for error or omission in such person's practice, shall be commenced within three (3) years after the date of injury or three (3) years after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury whichever occurs last, but in no case may such action be commenced after five (5) years from the date of injury. However, this time limitation shall be tolled for any period during which such person has failed to disclose any act, error, or omission upon which such action is based and which is known to him, or through the use of reasonable diligence subsequent to said act, error or omission would have been known to him.

Maximum—five years.

Tolled during failure to disclose.

Approved March 15, 1971.

CHAPTER NO. 329

An Act to Provide for Removal of Elective Officers of Cities and Towns Under a Mayor-Council Form of Government.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. (1) The holder of any elective office under a mayor-council form of municipal government may be removed at any time by the electors qualified to vote. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by twenty-five percent (25%) of all qualified electors registered for the last preceding general municipal election, demanding an election for recall of the person sought to be recalled, shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of such paper shall make oath before an officer com-

Procedure—removal of elective officer under mayor—council government.

Petition—25% of electors.

Filing with city clerk.

Signatures.

Oath.

HeinOnline -- 1971 vol. II 1309 1971

petent to administer oaths that the statements therein are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

Within 10 days—determination by city clerk.

(2) Within ten (10) days from the date of filing such petition the city clerk shall examine, and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the council shall allow him extra help for that purpose; and he shall attach to said petition his certificate, showing the result of said examination. If, by the clerk's certificate, the petition is shown to be insufficient, it may be amended within ten (10) days from the date of said certificate. The clerk shall, within ten (10) days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the clerk shall submit the same to the council without delay. If the petition shall be found to be sufficient, the council shall order and fix a date for holding said election, not less than seventy (70) days nor more than eighty (80) days from the date of the clerk's certificate to the council that a sufficient petition is filed.

Certificate.

Amendment within 10 days.

Return without prejudice.

Submission to council.

Recall election date.

Publication of notice.

(3) The council shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned, and the result thereof declared, in all respects as are other elections.

Vacancy.

(4) Any vacancy created as a result of such recall election shall be filled as prescribed in Section 11-721, R.C.M. 1947.

Approved March 15, 1971.

CHAPTER NO. 330

An Act to Amend Section 11-2214, R.C.M. 1947, Relating to the Methods of Payment of Special Improvement Districts.

HeinOnline -- 1971 vol. II 1310 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-2214, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-2214. **Methods of payments of improvements.** (1) To defray the cost of the making of any of the improvements provided for in this act, the city council or commission shall adopt one of the two following methods of assessment; *unless otherwise provided in subsection 1 (c):* Two methods of assessment special improvement districts.

(a) The city council or commission shall assess the entire cost of such improvements against the entire district, each lot or parcel of land within such district to be assessed for that part of the whole cost which its area bears to the area of the entire district, exclusive of streets, avenues, alleys and public places; provided, however, that the city council or commission, in its discretion, shall have the power to pay the whole or any part of the cost of any street, avenue or alley intersections, out of any funds in its hands, available for that purpose, or to include the whole or any part of such costs within the amount of the assessment to be paid by the property in the district. In order to equitably apportion the cost of any of the improvements herein provided for between that land within the district which lies within twenty-five (25) feet of the line of the street on which the improvement is to be made and all other land within the district, the council or commission may, in the resolution creating any improvement district, provide that the amount of the assessment against the property in such district, to defray the cost of such improvements, shall be so assessed that each square foot of land within the district lying within twenty-five (25) feet of the line of the street on which the improvements therein provided for are made shall bear double the amount of cost of such improvements per square foot of such land that each square foot of any other land within the district shall bear. Assessment against district—apportionment. Square foot basis.

(b) The city council or commission shall assess the cost of such improvements against the entire district, each lot or parcel of land within such district, bordering or abutting upon street or streets whereon or wherein the improvement has been made, in proportion to the lineal feet abutting or bordering the same; provided, however, Lineal feet basis.

HeinOnline -- 1971 vol. II 1311 1971

Exceptions.

that this method of assessment shall not apply to assessments in improvement districts created under the provisions of section 11-2205 of this code; and provided, further, that the city council or commission, in its discretion, shall have the power to pay the whole or any part of the cost of any street, avenue, or alley intersections out of any funds in its hands, available for that purpose, or to include the whole or any part of such costs within the amount of the assessment to be paid by the property in the district.

Storm sewer, sanitary sewer and street pavement districts.

(c) Where curbs, gutters, alley approaches, streets, crossings and utility service connections are an integral part of the creation of storm sewer districts, sanitary sewer districts or street pavement districts, the city council or commission may assess a portion of the improvements upon the area basis, as set forth under subsection 1 (a); other portions of the improvements upon a lineal feet basis, as set forth under subsection 1 (b); and utility service connections upon a lump sum based on the bid price in the improvement district contract and assessed only against the lots, tracts or parcel of land served by the utility connection or connections; all within the same special improvement district, so long as such assessment is equitable.

Area basis.

Lineal feet basis.

Lump sum.

Assessment must be equitable.

Duty of owner or operator of railway to repair pavement.

(2) Whenever any portion of the surface of a paved street is occupied or used for railway or street railway purposes, it shall be and continue to be the duty of the owner or operator of such railway or street railway to fully repair any injury or damage to such pavement caused by such railway or street railway either in the operation of its cars or in the laying or repair of its tracks, and in case of a failure or refusal of such owner or operator so to repair such pavement within a reasonable time after notice by the city council or commission, the city council or commission is authorized and empowered to cause such repairs to be made and to assess the cost thereof to such owner or operator and to enforce collection thereof as in the case of taxes.

On failure or refusal— assessment of costs.

Omission of federal lands.

(3) Whenever any lot, piece or parcel of land belonging to the United States, or mandatory of the government, shall front upon the proposed work or improvement, or be included within the district declared by the city council in its resolution of intention to be the district to be assessed to pay the costs and expenses thereof,

HeinOnline -- 1971 vol. II 1312 1971

said council shall, in the resolution of intention, declare that said lots, pieces or parcels of land, or any of them, shall be omitted from the assessment thereafter to be made to cover the costs and expenses of said work or improvement, and the cost of said work or improvement in front of said lots, pieces or parcels of land shall be paid by the city from its general fund.

Costs paid from general fund.

(4) It shall be lawful for the owner or owners of the lots or land fronting upon any street, the width and grade of which shall have been established by the city council or commission, to perform, at his or their own expense (after obtaining permission from the council or commission so to do, but before said council or commission has passed its resolution of intention to order grading exclusive of this), any grading upon said street, to its full width, or to the center line thereof and to its grade as then established, and thereupon to procure, at his or their own expense, a certificate from the city engineer, setting forth the number of cubic yards of cutting and filling made by him or them in such grading, and proportions performed by each owner, and that the same is done to establish width and grade of said street, or to the center line thereof, and thereafter to file said certificate with the city engineer, which certificate the engineer shall record in a book kept for that purpose in his office, properly indexed.

Owners may grade streets.

Prior permission.

Certificate of city engineer.

Filing.

(5) Whenever thereafter the city council or commission orders the grading of said street, or any portion thereof, on which any grading certified as aforesaid has been done, the bids and contracts must express the price by the cubic yard for cutting and filling in grading; and the said owner or owners and his or their successors in interest shall be entitled to credit, on the assessment upon his or their lots and lands fronting on said street for the grading thereof, to the amount of the cubic yards of cutting and filling set forth in his or their certificate, at the prices named in the contract for said cutting and filling; or, if the grade meanwhile has been duly altered, only for so much of said certified work as would be required for grading to the altered grade; provided, however, that such owner or owners shall not be entitled to such credit as may be in excess of the assessments for grading upon the lots and lands owned by him or them, and proportionately assessed for the whole of said grad-

Effect of filing.

Credit on assessment.

Limitation on credit.

HeinOnline -- 1971 vol. II 1313 1971

Duties of city clerk.

ing; and the city clerk shall include in the assessment for the whole of said grading upon the same grade the number of cubic yards of cutting and filling set forth in any and all certificates so recorded in his office, or for the whole of said grading to the duly altered grade so much of said certified work as would be required for grading thereto, and shall enter corresponding credits, deducting the same as payments upon the amounts assessed against the lots and land owned respectively, by said certified owners and their successors in interest; pro vided, however, that he shall not so include any grading quantities or credit any sums in excess of the proportionate assessments for the whole of the grading which are made upon any lots and lands fronting upon said street, and belonging to any such certified owners or their successors in interest.

Limitations.

Work done by owners excepted from city work order.

(6) Whenever any owner or owners of any lots and lands fronting on any street shall have heretofore done, or shall hereafter do any work (excepting grading) on such street, in front of any block, at his or their own expense, and the city council or commission shall subsequently order any work to be done of the same class in front of the same block, said work so done at the expense of such owner or owners shall be excepted from the order ordering work to be done; provided, that the work so done at the expense of such owner or owners shall be upon the official grade, and in condition satisfactory to the city engineer at the time said order is passed."

Conditions.

Approved March 15, 1971.

CHAPTER NO. 331.

An Act Amending Section 75-5206, R.C.M., 1947, to Provide that the Montana Law Enforcement Academy Advisory Board Select and Hire Such Staff as it Deems Necessary to Implement the State of Montana Law Enforcement Academy Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-5206, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1314 1971

"75-5206. **Powers and duties of the Montana law enforcement academy advisory board.** The Montana law enforcement academy advisory board shall have the power and it shall be its duty to:

Powers and duties —law enforcement academy advisory board.

1. Establish rules and regulations for the government and conduct of the advisory board.

Rules.

2. Choose a site for the Montana law enforcement academy at the unit of the university *system of Montana* which in the determination of the board is best suited for the needs of the academy.

Site for academy.

3. Establish qualifications for admission to the academy.

Qualifications.

4. Select from among the qualified applicants those officers who are to attend the academy each year.

Selection of officers.

5. Determine the curriculum and methods of training for the officers attending the academy.

Curriculum.

6. Select *and hire such staff as it deems necessary to implement this act.*

Staff.

7. Establish rules for the conduct of the officers at the academy.

Rules of conduct.

8. Award appropriate certificates to the officers who successfully complete their training; which certificate shall be signed by the president of the selected university unit.

Training certificates.

9. Provide for the keeping of permanent records of enrollment, attendance, graduation and such other records as the board may deem necessary.

Records.

10. Make a yearly report in writing of the activities of the academy. Copies of this report shall be sent to the governor, attorney general, and secretary of state of the state of Montana.

Annual report.

11. Do all other things necessary and desirable for the establishment and operation of the academy not inconsistent with this act or the constitution and statutes of the state of Montana.

Operation of academy.

12. Accept and expend grants from federal, state, county and city governments or private persons, associations or corporations."

Grants and gifts.

Approved March 15, 1971.

HeinOnline -- 1971 vol. II 1315 1971

CHAPTER NO. 332.

An Act Increasing Jurors' and Witnesses' Fees in State District Courts and Courts Not of Record in the State of Montana by Amending Sections 25-401, 25-403, 25-404, 25-409, 25-410, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 25-401, R.C.M., 1947, is amended to read as follows:

Grand and trial jurors shall receive $12 per day and 8c per mile.

"25-401. **Jurors' fees.** Grand and trial jurors shall receive *twelve dollars ($12)* per day for attendance before any court of record and eight cents *(8¢)* per mile each way for traveling from and to their residence and county seat. Any juror who is excused from attendance upon his own motion on the first day of his appearance in obedience to notice, or who has been summoned as a special juror and not sworn in the trial of the case, in the discretion of the court, may receive per diem and mileage."

Amending clause.

Section 2. Section 25-403, R.C.M., 1947, is amended to read as follows:

Other jurors—$7.50 per day.

Costs in civil actions.

"25-403. **Compensation of jurors in courts not of record and at coroner's inquests.** Jurors in courts not of record, in both civil and criminal actions, shall receive *seven dollars and fifty cents ($7.50)* per day, but in civil actions the jury must be paid by the party demanding the jury, and must be taxed as costs against the losing party. Jurors in coroner's inquest shall receive for their services the sum of *seven dollars and fifty cents ($7.50)* per day."

Amending clause.

Section 3. Section 25-404, R.C.M., 1947, is amended to read as follows:

Witness fees—$10 per day.

8c per mile.

Exemptions.

"25-404. **Witnesses' fees.** For attending in any civil or criminal action or proceeding before any court of record, referee, or officer authorized to take depositions, or commissioners to assess damages or otherwise, for each day, *ten dollars ($10)*. For mileage in traveling to the place of trial or hearing, each way, for each mile, eight cents *($.08);* provided, however, that no officer of the United States, the state of Montana, or of any county, incorporated city or town within the limits of the state of Montana shall receive any per diem when testifying in a criminal proceedings, and that no witness shall receive fees in any more than one criminal case on the same day."

HeinOnline -- 1971 vol. II 1316 1971

Section 4. Section 25-409, R.C.M., 1947, is amended to read as follows: Amending clause.

"25-409. **Witnesses in courts not of record.** Witnesses in courts not of record in civil actions and proceedings shall receive *three dollars ($3)* for each day's actual attendance, and seven cents *($.07)* for each mile actually traveled in going from his residence by the usual traveled route to the said court and return." Witnesses—courts not of record—fees—$3 per day. 7c per mile.

Section 5. Section 25-410, R.C.M., 1947, is amended to read as follows: Amending clause.

"25-410. **Witnesses in criminal actions or coroner's inquests.** Witnesses in courts not of record in criminal actions and on coroner's inquests shall receive *three dollars ($3)* per day for actual attendance, and seven cents *($.07)* per mile for each mile actually and necessarily traveled from his place of residence to the said court and return." Other witnesses—$3 per day. 7c per mile.

Approved March 15, 1971.

CHAPTER NO. 333.

An Act to Amend Section 84-1501, R.C.M., 1947, to Provide that the Temporary Corporation License Tax of Six and One-Quarter Percent (6¼%) of Net Income Be Retained at Six and One-Quarter (6¼%), and Made Permanent, and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1501, R.C.M., 1947, as amended in section 1, chapter 11, extraordinary session, Laws of 1969, is amended to read as follows: Amending clause.

"84-1501. **Corporation license tax—organizations exempt therefrom.** The term corporation includes associations, joint-stock companies, common-law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agreements, declarations of trust. Every corporation, except as hereinafter provided and except as provided in section 40-2821 (5), R.C.M., 1947, organized and existing under the laws of the state of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said state of Corporation defined. Annual license fee.

HeinOnline -- 1971 vol. II 1317 1971

Montana, such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth; and every corporation, except as hereinafter provided, organized and existing under the laws of any other state or country, or the United States, and engaged in business in the state of Montana, shall annually pay for the exclusive use and benefit of the state of Montana a license fee for carrying on its business in the state of Montana of such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth.

6¼% of net income effective February 28, 1971.

The percentage of net income to be paid under this section shall be six and one-quarter percent (6¼%) of all net income for the taxable period. The rate set forth in this act shall be effective for taxable years after February 28, 1971. Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than fifty dollars ($50).

Minimum—$50.

Exemptions.

There shall not be taxed under this title any income received by any—

(a). Labor, agricultural or horticultural organization;

(b). Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive benefit of the members of fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

(c). Cemetery company owned and operated exclusively for the benefit of its members;

(d). Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

(e) Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

HeinOnline -- 1971 vol. II 1318 1971

(f). Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

(g). Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members.

(h). Farmers' or other mutual hail, cyclone or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

(i). Any cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis;

(j). Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(k). In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function." Exclusion.

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved March 15, 1971.

CHAPTER NO. 334.

An Act to Amend Section 32-1127, R.C.M., 1947, Defining Vehicles, Combination of Vehicles, Loads, Objects or Any Other Things for Special Permits in Excess of Statutory Limits, Providing Conditions for Issuing such Special Permits, Establishing Fees and Providing Exemptions and Providing a Penalty.

HeinOnline -- 1971 vol. II 1319 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-1127, R.C.M., 1947, is amended to read as follows:

Permit to move on highway—size or weight exceeding maximums.

"32-1127. **Permits for excess size and weight.** The state highway commission, and local authorities in their respective jurisdiction, may, in their discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing, authorizing the applicant to operate or move a vehicle, *combination of vehicles, load, object or any other thing* of a size or weight exceeding the maximum specified in *section 32-1123, R.C.M., 1947, or acts amendatory* upon any highway under the jurisdiction of and for the maintenance of which the body granting the permit is responsible; provided, however, that only the state highway commission shall have the discretion to issue permits for movement of *a* vehicle *or combination of vehicles* carrying built-up or reducible loads in excess of nine (9) feet in width or exceeding the length, height, or weight specified in *section 32-1123, R.C.M., 1947*. Said permit shall be issued in the public interest; provided, however, that any carrier receiving this permit must have public liability and property damage insurance for the protection of the traveling public as a wole. No permit shall be issued for a period of time greater than the license provided in Title 53 or Title 32, R.C.M., 1947, as amended, including grace periods allowed by said sections. Vehicles licensed in other jurisdictions may, at the discretion of the Montana state highway commission, purchase permits to expire with their registration, provided that any license required by the state of Montana shall govern the issuance of a special permit. The Montana state highway commission may issue oversize permits to dealers in implements of husbandry and self-propelled machinery which may be transferred from unit to unit by the dealer for the fees set forth in paragraph (b). Such permits issued to dealers in implements of husbandry and self-propelled machinery shall expire on December 31 of each year with no grace period. For the purposes of this section, a dealer in implements of husbandry or self-propelled machinery shall be a resident of the state of Montana. A post-office box number shall not be a permanent address under this section.

Public interest.

Insurance required.

Permits—out-of-state vehicles.

Oversize permits for dealers.

Expiration.

Residency requirement.

Application requirements.

The applicant for any special permit shall specifically describe the powered vehicle or towing vehicle and gener-

HeinOnline -- 1971 vol. II 1320 1971

ally describe the type of vehicle, *combination of vehicles,* load, *object, or any other thing* to be operated or moved and the particular state highways over which the vehicle, *combination of vehicles,* load, *object, or any other thing* is to be moved and whether such permit is required for a single trip or for continuous operation. All fees collected under this act shall be forwarded to the state treasurer for deposit in the state highway general fund.

Deposits of fees.

(a) **Special permits—discretion of issuer—conditions.** The state highway commission or local authority is authorized to issue or withhold such special permit at its discretion, or, if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicle, *combination of vehicles, load, object, or any other thing* described may be operated on the public highways indicated, or otherwise to limit or prescribe conditions of operation of such vehicle, *combination of vehicles, load, object, or any other thing* when necessary to assure against damage to the road foundation, surfaces or structures or safety of traffic and may require such undertaking or other security as may be deemed necessary to compensate for injury to any roadway or road structure.

Conditions of special permits.

(b) **Special permits—fees.** The following fees, in addition to the regular license and gross vehicle weight fees, shall be paid for all movements under special permits on the public highways under the jurisdiction of the state highway commission:

Fee schedule.

Six dollars ($6) for each permit issued in excess of the size and weight specified in *section 32-1123, R.C.M., 1947, and acts amendatory thereto;* provided, however, that term or blanket permits shall not be issued for overwidth *vehicles, combination of vehicles, load or any other thing* in excess of fifteen (15) feet, overlength *vehicles, combination of vehicles, load, object or any other thing* in excess of *eighty-five (85)* feet, and overheight *vehicles, combination of vehicles, load or any other thing* in excess of *thirteen and one-half (13½) feet or of* a limit determined by the state highway commission. *A vehicle, combination of vehicles, load, or any other thing* in excess of these dimensions will be limited to trip permits.

Limitations—term or blanket permits.

Trip permits only.

(c) A self-propelled vehicle used only for the purpose of moving haystacks on a commercial basis is subject to the provisions of this section except as follows:

Commercial hay vehicles.

HeinOnline -- 1971 vol. II 1321 1971

Size. *1. The vehicle, loaded or unloaded, shall not exceed fifty-five (55) feet in length nor twenty (20) feet in width.*

75 mile limitation. *2. No single load shall be moved on such vehicle a distance greater than seventy-five (75) miles from the point of origin on public roads.*

Pilot cars required. *3. When the vehicle is hauling a load it shall be accompanied by two (2) pilot cars. Each car shall be equipped with a flashing warning light, a red flag, and a sign with the words "wide load" written thereon. One (1) car shall precede the vehicle by not less than one hundred (100) yards nor more than one quarter (1/4) mile and one (1) shall follow the vehicle at a distance not less than one hundred (100) yards nor more than one-quarter (1/4) mile. The following pilot car shall be in radio contact with the vehicle at all times.*

Speed. *4. The speed of the vehicle shall be reasonable and proper but not in excess of thirty-five (35) miles per hour.*

Daylight operation. *5. The vehicle shall be operated only between the hours of sunrise and sunset.*

Excepted highways. *6. The vehicle may not be operated on an interstate or controlled-access highway.*

Term or blanket permit. *7. A term or blanket permit may be issued for the vehicle.*

Fees—overweight permits. *(d)* A fee of six dollars ($6) shall be paid for each overweight permit issued, provided no permit shall be issued for a period of time greater than the license provided in Title 53 or Title 32, R.C.M., 1947, as amended, including grace periods allowed by said sections. Vehicles licensed in other jurisdictions may, at the discretion of the Montana state highway commission, purchase permits to expire with their registration, provided that any license required by the state of Montana shall govern the issuance of a special permit. In addition to the permit fee, there shall be charged for single trip permits: five dollars ($5) for distances to and including one hundred (100) miles; fifteen dollars ($15) for distances from one hundred one (101) to one hundred ninety-nine (199) miles; and twenty-five dollars ($25) for distances over two hundred (200) miles traveled, for such excess load over the gross allowable load specified in this section or the sum of the excess axle load, whichever is greater.

Out-of-state vehicles—fees.

HeinOnline -- 1971 vol. II 1322 1971

(e) Permits issued to the United States government, states, counties, cities and their political subdivisions, shall be issued without fee for a term beginning with the date of issuance and expiring December 31. Government permits.

(f) **Special permits—misrepresentations and violations —penalty—display of permit.** Any person who knowingly and willfully misrepresents the size or weight of any *vehicle, combination of vehicles, load, object or any other thing* in obtaining a special permit or does not follow the requirements and conditions of the special permit or who operates any vehicle, *combination of vehicles, load, object, or any other thing,* the gross weight of which is in excess of the maximum for which such vehicle, *combination of veicles, load, object, or any other thing* may be eligible for license, without first obtaining a special permit, is guilty of a misdemeanor. Penalties for violations.

Every special permit issued hereunder shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any peace officer, officer of the Montana highway patrol, or employees of the state highway commission. Permit display.

A peace officer, officer of the Montana highway patrol, or employees of the state highway commission who shall find any person operating a vehicle, *combination of vehicles, load, object, or any other thing* in violation of the conditions of a special permit issued hereunder may confiscate such permit and forward the same to the state highway commission which may return it to the permittee or revoke, cancel, or suspend it without refund. The state highway commission shall keep a record of all action taken upon permits so confiscated and if a permit shall be returned to the permittee, the action taken by the commission shall be endorsed thereon. Any permittee whose permit is suspended or revoked may, upon request, receive a hearing before the commission or person designated by the commission. The commission, after such hearing, may reinstate any permit or revise its previous action." Authority to confiscate. Records. Hearing.

Approved March 15, 1971.

HeinOnline -- 1971 vol. II 1323 1971

CHAPTER NO. 335

An Act Requiring Prospectors, Miners, or Other Persons in this State to Advise the Owner of the Land Surface in Advance of any Operations Which Will Disturb the Surface of Such Land and Obtain Authorization to Operate Thereon.

Be it enacted by the Legislative Assembly of the State of Montana:

"The landowner notification act."

Section 1. This act may be referred to as "The Landowner Notification Act".

Prospectors shall ascertain surface rights.

Section 2. All prospectors for minerals, miners, or other persons contemplating surface disturbance by mechanical equipment other than hand tools on lands within the state of Montana are required to ascertain the ownership and possessory right of any land before performing any such operations causing surface disturbance, such as road or trail building or any other work disturbing the surface on such land.

Notice to owner or manager prior to disturbance of surface.

Section 3. The land or surface of land not owned in fee by such person may not be disturbed in any manner until the owner or manager of the surface of said land, and the owner of a possessory right to said land, is given notice in writing, accompanied by a map showing the specific locations involved, of such person's intent or desire to enter upon such land which will sufficiently disclose the plan of work and operations, including contemplated measures for the protection and restoration of the land and waters, to enable the owner or manager of the land and any person holding a possessory right to such land to evaluate the extent of disturbance contemplated and the effectiveness and sufficiency of the protection and restoration measures planned.

Prior approval by owner of private land.

(a) Before commencement of any work or operations on any such lands, such person must first obtain from the surface owner of private land specific written approval of the proposed work or operations.

Authorization or permit by governmental agency.

(b) In the case of city, county, state, or federally owned lands, such person must first obtain the authorization or permit, if any, required by the applicable law and the regulations of the governmental agency or board charged by law with the administration or management of the surface of such land.

HeinOnline -- 1971 vol. II 1324 1971

Exemption—discovery pit excavation by hand methods.

Section 4. Discovery pits which may be required to locate a mining claim on federal lands open to mineral entry, when excavated entirely by hand methods with hand tools, are exempt from the operation of this act.

Exclusions.

Section 5. The provisions of this act shall not apply where operations upon land are performed in accordance with the terms of a prospecting permit or a lease covering any mineral interest in said land or other valid agreements authorizing such operations which are in full force and effect, or by the owner of one hundred percent (100%) of the rights to any mineral interest upon the land in which such mineral ownership is vested.

Penalties for violation.

Section 6. Any work done in violation of this act is punishable as a misdemeanor and each day of violation shall constitute a separate offense. The owner or lessor shall not be liable for injury to any person on either owned or leased land.

Limitation on liability.

Approved March 15, 1971.

CHAPTER NO. 336

An Act Amending Section 69-4118, R.C.M. 1947, by Including Jails Among the Buildings and Facilities Subject to Sanitary Inspections by the State Department of Health.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 69-4118, R.C.M. 1947, is amended to read as follows:

"69-4118. **Sanitary inspections of schoolhouses, churches, *jails* and other facilities for assemblages of persons.** (1) The department shall make sanitary inspections of schoolhouses, churches, theaters, *jails* and other buildings or facilities where persons assemble. If the facility is found unsanitary, the department shall direct that conditions be corrected within a reasonable time. If the unsanitary conditions are not corrected within the time specified, the building or facility is a public nuisance.

Duty of state department of health—sanitary inspections.

Actions.

(2) Either the state board or a local board of health shall bring an action to correct the unsanitary conditions in the way provided by law for abating a public nuisance."

Approved March 15, 1971.

HeinOnline -- 1971 vol. II 1325 1971

CHAPTER NO. 337

An Act to Amend Section 28-603, R.C.M. 1947, Relating to the Protection and Conservation of Forest and Farm Resources by the County Commissioners.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 28-603, R.C.M. 1947, is amended to read as follows:

County commissioners may establish fire seasons.

"28-603. **Powers of board.** (1) Boards of county commissioners may in their discretion establish fire seasons annually during which no person shall ignite or set any forest fire, or slash burning fire, or land clearing fire, or debris burning fire, or any open fire, within any forest, range or crop lands, subject to the provisions of this act,

Burning permit required.

without having obtained an official written permit to ignite or set such fire from a county rural fire chief or from a district rural chief authorized by the board to issue such permits for such lands;

Penalties for violations.

(2) Any person who shall ignite or set any forest fire, or slash burning fire, or land clearing fire, or debris burning fire, or any open fire, within any forest, range or crop land subject to the provisions of this act without first having obtained a written permit to ignite or set such fire shall be guilty of a misdemeanor;

Voluntary urban fire crews.

(3) To augment rural crews in case of serious emergency the boards may provide for the organization and training of voluntary urban fire crews to be used in rural areas;

Right of entry.

(4) Any county rural fire chief and/or district rural fire chief may enter private property either with or without fire control crews for the purpose of suppressing fires, and are exempt from any damage resulting from such activity;

Appropriations.

(5) The board is authorized to appropriate from the general fund of the county not to exceed *fifteen* thousand dollars *($15,000)* per year for the purchase, care and maintenance of fire-fighting equipment, or for the payment of wages to skilled operators of heavy mechanized equipment in the suppression of fires when deemed necessary; or if the general fund is budgeted to the full

Levy and assessment.

limit, the board may at any time fixed by law for levy

HeinOnline -- 1971 vol. II 1326 1971

and assessment of taxes levy a tax at such rate as in their judgment will be necessary to raise such needed sum not to exceed *fifteen* thousand dollars *($15,000)."*

CHAPTER NO. 338.

An Act Providing that the Owner of Real Property Against Which a Mechanics' Lien Has Been Filed May Substitute a Bond for the Security of the Lien and that Said Real Property Shall then be Released from the Effect of Such Lien, Together with Any Improvements Thereon, and Providing, in Such Instance, that the Lien Claimant Shall Have an Action upon the Bond Rather than an Action to Foreclose a Lien, and Providing that the Statute of Limitations for Foreclosure of a Mechanics' Lien Shall Apply to an Action upon Such Bond.

Be it enacted by the Legislative Assembly of the State of Montana:

Bond in lieu of mechanics lien.

Section 1. Whenever a mechanics' lien has been filed upon real property or any improvements thereon, as enumerated in section 45-501, R.C.M., 1947, the owner of any interest in such property, whether legal or beneficial, may, at any time before the lien claimant has commenced an action to foreclose such lien, file a bond with the clerk of the district court in the county in which such property is situated, or, if such property is situated in more than one county, with the clerk of the district court of any county in which a part of such property is situated. Such bond shall be in an amount one and one-half (1½) times the amount of the said lien, and shall be either in cash or written by a corporate surety company. If written by a corporate surety, such bond shall be approved by a judge of the district court with which such bond is filed. The bond shall be conditioned that if the lien claimant shall be finally adjudged to be entitled to recover upon the claim upon which his lien is based, the principal or his sureties shall pay to such claimant the amount of his judgment, together with any interest, costs, attorney fees, and other sums which such claimant would be entitled to recover upon the foreclosure of a lien against the principal.

Filing—clerk of district court.

Amount.

Approval—corporate surety.

Conditions.

HeinOnline -- 1971 vol. II 1327 1971

Release of lien.

Section 2. Upon the filing of a bond as provided in section 1 of this act, the lien against the said real property shall forthwith be discharged and released in full and the said bond shall be substituted for such lien.

Action on bond.

Section 3. When a bond is filed as provided in section 1 of this act, the person filing such lien may bring an action upon the said bond. Such action shall be commenced within the time allowed for the commencement of an action upon foreclosure of a lien, and the statute of limitations applicable to a lien foreclosure shall apply to an action upon such bond as it would had no bond been filed.

Approved March 15, 1971.

CHAPTER NO. 339.

An Act Amending Section 84-4820, R.C.M., 1947, to Provide an Extension of Time for Filing Annual Statement of Railway Freight Car Leases and Payment of Tax; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4820, R.C.M., 1947, is amended to read as follows:

"84-4820. **Railroad companies to withhold tax, file statements annually and remit to state—receipts—investigations—ad valorem tax basis.** Every railroad company so using or leasing said cars, upon payment therefor to such company shall withhold from such payment five and one-half percent (5½%) of as much thereof as shall constitute gross earnings of such freight line company within this state. On or before March 1, 1970, such railroad company shall make and file with the board a consolidated statement in a form to be prescribed by the board, showing the amount of such payments for the next preceding calendar year ending December 31, 1969, and the amounts so withheld and due the state of Montana. A like report shall be made on or before March 1 of each year thereafter; *provided, however, that for good cause the board may grant a reasonable extension for filing, but not to exceed thirty (30) days.* Such railroad company at the

Duty of railroad company to withhold—payment on leased cars.

Annual statement to board of equalization.

Form.

Extension—30 days.

Remittance.

HeinOnline -- 1971 vol. II 1328 1971

time of filing such statement shall remit the amounts so withheld and due the state of Montana. Upon receipt of such payment, the board shall issue its receipt, in triplicate, one (1) copy of which shall be mailed to such railroad company, one (1) to the freight line company for which such tax is paid, and one (1) to be retained in the office of the state board of equalization. The mailing of such receipt to such freight line company shall constitute notice of the filing of said statement and payment of said tax. If any railroad company shall fail to make or file such report, or if the state board of equalization be dissatisfied with any report filed, the board shall have the power to conduct a hearing and investigation for the purpose of ascertaining from whatever sources to which it has access, the gross earnings of such freight line company from the use or operation of such cars within the borders of this state, and in conducting such hearing and investigation, the board shall have power, by subpoena, to require officers, agents, employees or receivers of such railroad company, or of such freight line company, to attend before the state board of equalization, and to bring with him, or them, for inspection by the board, any books, papers, or documents in his or their possession, or under his or their control, in any manner affecting said tax, and to testify under oath concerning any matter relating to the organization or business of such freight line company within this state. Any person who shall fail, neglect or refuse to attend before the board, when subpoenaed so to do, or who shall fail, neglect, or refuse to bring with him and submit for inspection by the board any books, papers, or documents in his possession or under his control affecting the organization or business of such freight line company within this state, or who shall refuse to testify, or refuse to answer any question which may be asked him concerning the organization or business, shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or be imprisoned in the county jail for not less than thirty (30) days nor more than six (6) months. Every freight line company, as hereinbefore defined, shall be liable for the payment of the difference, if any, between five and one-half percent (5½%) of all gross earnings in this state and the amounts withheld and remitted to the state of Montana

Receipts in triplicate.

Hearing and investigation.

Subpoena.

Penalties for contempt.

Liability for payment.

HeinOnline -- 1971 vol. II 1329 1971

by railroads, and shall be liable for the payment of any additional taxes which the board may find due under its authority to raise or lower the rate to conform to the taxes which would be payable if the cars were taxed on an ad valorem basis."

Effective immediately.

Section 2. This act is effective upon its passage and approval.

Approved March 15, 1971.

CHAPTER NO. 340.

An Act Relating to Sheriff's Motor Vehicles; Amending Section 16-2724, R.C.M., 1947, to Allow County Commissioners to Furnish Motor Vehicles to Sheriff's Office Without Consent of Sheriff; and Adding a New Section Providing Liability Insurance for Privately Owned Motor Vehicles Used by Sheriffs.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-2724, R.C.M., 1947, enacted as section 1, chapter 114, laws of 1969, is amended to read as follows:

Authority to purchase sheriff's cars.

"16-2724. **Purchase or lease of sheriff's vehicle authorized—operation and maintenance costs—mileage.** The board of county commissioners may purchase or lease motor vehicles from county funds for the use of the sheriff or any person employed by him and may also pay for the operation and maintenance of those vehicles from county funds. No mileage shall be paid by the county to sheriffs whose vehicles are provided and maintained by the county. All mileage paid to sheriffs whose vehicles are provided and maintained by the county shall be paid over to the county treasurer and deposited in the county general fund."

Liability insurance —sheriff's privately owned vehicle.

Section 2. The board of county commissioners shall provide liability insurance for not more than one (1) privately owned vehicle used by the sheriff, not more than one (1) privately owned vehicle used by the undersheriff, and not more than one (1) privately owned vehicle used by each deputy sheriff when the vehicles are used on official business. The insurance shall be paid for from

Limits of liability.

HeinOnline -- 1971 vol. II 1330 1971

county funds and shall provide full comprehensive and collision coverage plus minimum coverage of one hundred thousand dollars ($100,000) for each person for bodily injury and medical expenses, three hundred thousand dollars ($300,000) for all persons per accident, and fifty thousand dollars ($50,000) per accident for property damage. This section shall not apply to counties furnishing motor vehicles to the sheriff's department pursuant to the provisions of section 16-2724, R.C.M., 1947. Exclusion.

Approved March 15, 1971.

CHAPTER NO. 341.

An Act to Amend Section 75-6810, R C.M., 1947, to Provide for Payment of Salaries of School District Employees by Deposit Directly to Employees' Account in Local Banks Upon Employee Authorization.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-6810, R.C.M., 1947, is amended to read as follows: Amending clause.

"75-6810. **Procedure for issuance of warrants.** The trustees of each district shall issue all warrants in triplicate and the warrants shall identfy: (1) the budgeted fund or non-budgeted fund on which the warrant is drawn; School warrants—requirements.

(2) the appropriation item of the budgeted fund or the type of expenditure for a non-budgeted fund on which the warrant is drawn; and

(3) the warrant as an emergency warrant, if it is drawn on an emergency budget.

Any warrant issued by a district shall be countersigned by the chairman of the trustees and the clerk of the district before the warrant shall be negotiable. Facsimile signatures may be used in accordance with the provisions of chapter 13 of Title 59, R.C.M., 1947, provided that the facsimile signature device shall not be available to the other countersigner of the warrant. Signing.

The original copy of the warrant shall be delivered to the payee; the duplicate shall be sent immediately to the county treasurer; and the triplicate shall be retained Distribution of copies.

HeinOnline -- 1971 vol. II 1331 1971

by the district for accounting record purposes. The duplicate and triplicate copies shall be identified on the face of the warrant as "Not Negotiable—Copy of Original."

Trustees may elect —direct deposit— employee consent.

However, the trustees may elect to issue warrants in payment of wages and salaries on a direct deposit basis to the employee's account in a local bank, provided the consent of the employee has been obtained and the employee is given an itemized statement of payroll deductions for each pay period."

Approved March 15, 1971

CHAPTER NO. 342

An Act to Amend Section 75-7309, R.C.M. 1947, Relating to the Investment of Endowment Funds of School Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-7309, R.C.M. 1947, is amended to read as follows:

Trustees' authority —gifts and legacies.

"75-7309. **Gifts, legacies, devises and administration of endowment fund.** The trustees of any district shall have the authority and the power to accept gifts, legacies and devises, subject to the conditions imposed by the deed of the donor, the will of the testator or without any conditions imposed. Unless otherwise specified by the donor, devisor or testator, when a district receives a gift, legacy or devise, the trustees shall deposit such gift, legacy, devise, or the proceeds therefrom in an endowment fund. The trustees shall administer the endowment fund so as to preserve the principal from loss and only the income from such fund shall be appropriated for any purpose.

Deposit. Administration of endowment funds.

Investment of funds.

Unless the conditions of the endowment instrument require an immediate disbursement of such money, *the money deposited in the endowment fund shall be invested by the trustees, notwithstanding the provisions of any other state law, in: (1) school district bonds of the district;*

(2) bonds of other school districts within the state;

(3) first mortgage bonds, debentures, notes and other evidences of indebtedness issues, assumed or guaranteed by

HeinOnline -- 1971 vol. II 1332 1971

any solvent and operating public utility corporation existing under the laws of the United States of America or any state thereof which bonds, debentures, notes and other evidences of indebtedness are, at the time of such investment, within the three (3) highest quality grades for the rating of such bonds, debentures, notes and other evidences of indebtedness by any nationally recognized investment rating agency;

(4) certificates of deposit of either Montana banks insured by the Federal Deposit Insurance Corporation; or

(5) direct obligations of the United States government.

Deposit of interest.

All interest collected on such deposits or investments shall be credited to the endowment fund. No portion of the endowment fund shall be loaned to the district nor shall any money of such fund be invested in warrants of the district.

Abandoned district —transfer of funds.

Whenever any district has been abandoned, the endowment fund of such abandoned district shall be transferred and placed in the endowment fund in the district to which the territory is attached.

County treasurer— custodian of funds.

As the custodian of the endowment fund, the county treasurer shall be liable on his official bond for the endowment fund of any district of the county. No later than the first day of July of each school fiscal year, the county treasurer shall account to the trustees of each district on the condition of its endowment fund including the status of the investments that have been made with the money of the fund. The county treasurer shall also include the endowment fund in his reports to the board of county commissioners.

Annual accounting.

Memorials.

The trustees of any district having an endowment fund shall provide suitable memorials for all persons or associations of persons making gifts to the district which become a part of the endowment fund."

Approved March 15, 1971

CHAPTER NO. 343

An Act Relating to the Time for City Elections, Amending Section 11-709 and Section 23-3302, R.C.M. 1947.

HeinOnline -- 1971 vol. II 1333 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 11-709, R.C.M., 1947, is amended to read as follows:

Biennial municipal elections—first Tuesday of April. "11-709. **Biennial elections in cities and towns — terms of office.** On the first *Tuesday* of April of every second year a municipal election must be held, at which the qualified electors of each town or city must elect a mayor and two (2) aldermen from each ward, to be voted for by the wards they respectively represent; the mayor to hold office for a term of two (2) years, and until the qualification of his successor; and each alderman so elected to hold office for a term of two (2) years, and until the qualification of his successor; and also in cities of the first, second and third class, a police judge and a city treasurer, who shall hold office for a term of two (2) years, and until the qualification of their successors"

Mayor and aldermen.

Terms of office.

Police judge and city treasurer.

Amending clause. Section 2. Section 23-3302, R.C.M., 1947, is amended to read as follows:

Cities over 3,500. "23-3302. **Primaries in cities over certain size — procedure.** In cities having a population of three thousand five hundred (3,500) or more as shown by the most recent federal or state census:

Primary election. (1) The nomination of candidates by primary election for city offices shall be subject to the provisions of this chapter;

Nominations. (2) Political parties shall file declarations of nominations for city offices with the city clerk;

Duties of city clerk. (3) The duties of the city clerk are the same as the registrar in conducting the primary elections, and the city clerk shall send notices of the primary election in the same manner as registrars send notices for nominations for county offices at primary elections;

Election date. (4) On the fourteenth day preceding a city election, the cities shall hold primary elections;

No primary election. (5) If no declarations are filed forty (40) days or more before the primary election, no primary election shall be held and the city clerk shall certify to the registrar thirty-five (35) days or more before the date of the primary election that no petitions have been filed;

HeinOnline -- 1971 vol. II 1334 1971

(6) The council shall; Duties of council.

(a) establish city voting precincts and wards,

(b) appoint city judges and clerks of elections and other officers necessary for the election,

(c) perform other necessary duties in the same manner prescribed for city elections."

Approved March 15, 1971.

CHAPTER NO. 344

An Act to Amend Section 24-107, R.C.M., 1947, Relating to Guy Insulation, By Providing for the Use of Fiberglass Insulators.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 24-107, R.C.M. 1947, is amended to read as follows: Amending clause.

"24-107. **Guy insulation.** Any guy wire attached to any pole or appliance on which is run, placed, erected, or maintained any wire or cable used to conduct or carry electricity for the purpose of light, heat, or power, or used jointly with telephone, telegraph, or other signal wires, shall be permanently and effectively insulated at all times, by the insertion of at least two (2) strain insulators. The upper of these insulators shall be inserted in the guy so as to be at least six (6) feet in a horizontal line from the pole itself, and the second strain insulator shall be inserted in the guy so as to be not less than eight (8) feet in a vertical line from the surface of the ground. In short guys in which the two (2) insulators are required, and which will be located at the same point or near each other, two (2) insulators may be coupled in series and put into the guy together. All strain insulators shall be so constructed and maintained that the guy wire or guy cable holding the insulator in place shall interlock in case of failure or breakage thereof. *A single fiberglass strain insulator may be substituted and used in lieu of the two (2) strain insulators. Such fiberglass strain insulators must have mechanical strength equal to or greater than the guy strang used and must have a wet flash over rating equal to the highest line to line voltage involved in the*

Guy wires require two strain insulators.

Installation.

Interlock construction.

Substitute—single fiberglass strain insulator.

Requirements.

HeinOnline -- 1971 vol. II 1335 1971

Exceptions—railway electrification.

guying application and must have a dry flash over rating equal to two (2) times the line to line voltage. The above shall not apply to railway electrification, where at least one (1) insulator shall be inserted in each end of every auxiliary cross-span and one in each auxiliary guy, and provided further, that in accord with the provisions of the national electric safety code, the above shall not apply to lines in rural areas where a common neutral is used and both primary and secondary circuits and also the guys are grounded to said common neutral and said common neutral has at least four (4) ground connections in each mile in addition to each ground connection at individual services."

Rural lines.

Approved March 15, 1971

CHAPTER NO. 345

An Act Amending Section 84-4905, R.C.M. 1947, to Remove the Exemption of Dividends from Capital Stock of National Banks in Montana from Adjusted Gross Income for Income Tax Purposes; and Providing Effective Dates.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4905, R.C.M. 1947, is amended to read as follows:

Adjusted gross income defined.

"84-4905. **Adjusted gross income.** (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, and in addition shall include the following:

Additional inclusions.

(a) Interest received on obligations of a state, territory, county or municipality;

(b) Refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability.

Exclusions.

(2) Adjusted gross income does not include the following which are exempt from taxation under this act:

(a) Interest income from obligations of the United States government.

HeinOnline -- 1971 vol. II 1336 1971

(b) All benefits received under the Federal Employees Retirement Act not in excess of thirty-six hundred dollars ($3,600).

(c) All benefits paid under the Montana Teachers Retirement Act which are specified as exempt from taxation by section 75-2713.

(d) All benefits paid under the Montana Public Employees Act which are specified as exempt from taxation by section 68-1303.

(e) All benefits paid under the Montana Highway Patrol Retirement Act which are specified as exempt from taxation by section 31-221.

(f) Montana income tax refunds or credits thereof.

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect, but with respect to which the election provided for under section 84-1501.2, as amended, is not in effect, adjusted gross income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits or losses required to be included in the shareholder's federal income tax adjusted gross income by reason of the said election under subchapter S. However, the shareholder's adjusted gross income shall include actual distribution from the corporation to the extent they would be treated as taxable dividends if the subchapter S. election were not in effect."

Corporation shareholders.

Exclusions.

Inclusions.

Section 2. For the taxable year beginning on and after January 1, 1971, the amendment to Section 1 of the act is effective in accordance with Public Law 91-156, Section 1 (12 U.S.C. 548 (5)).

Effective January 1, 1971.

For taxable years beginning on and after January 1, 1972, the amendment to Section 1 of this act is effective in accordance with Public Law 91-156, Section 2 (12 U.S.C. 548).

Effective January 1, 1972.

Section 3. This act is effective on its passage and approval.

Effective immediately.

Approved March 15, 1971

HeinOnline -- 1971 vol. II 1337 1971

CHAPTER NO. 346

An Act Amending Section 94-35-269, R.C.M. 1947, to Include the Hunting of All Wildlife Providing for the Prosecution of Careless, Reckless and Negligent Hunters and for Imposing Penalties Thereon, and Requiring Purchaser of a Hunting License Be Informed of Penalties of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 94-35-269, R.C.M. 1947, is amended to read as follows:

"94-35-269. **Hunting in careless or reckless manner—failure to assist person injured or wounded — misdemeanor.** *(1)* Any person who, in the act of pursuing, taking or killing *wildlife*, shall act in a careless or reckless manner, or with wanton disregard of human life or property, or who knowingly fails to give all reasonable assistance to any person whom he has injured or wounded, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and upon conviction thereof, be punished as provided by law.

Penalties—hunting in careless manner.

Failure to assist injured person.

Penalties—injuring, wounding, or killing person.

Assistance.

Report.

Costs and expenses.

(2) Any such person convicted of injuring, wounding, or killing any person shall lose all hunting privileges and licenses for a period of twenty (20) years unless assistance is rendered to the injured or wounded person and the incident duly reported. Such person shall be responsible for and bear all costs and expenses incurred by the state or any county in the rescue or removal of a wounded or dead person whom he injured or killed, as provided in subsection (1) above.

Approved March 15, 1971.

CHAPTER NO. 347.

An Act Amending Section 1-201, R.C.M. 1947, to Increase the Daily and Annual Per Diem Allowance for Members of the State Aeronautics Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 1-201, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1338 1971

"1-201. **Creation of state aeronautics commission.** (a) Composition. There is hereby created a commission to be known as the state aeronautics commission. Said commission shall consist of seven persons who shall be appointed by the governor within thirty days after the passage and approval of this act, and who shall serve without compensation except that they shall receive a per diem of *twenty dollars ($20)* for each day actually expended in the performance of their duties under this act and shall be reimbursed for all actual and necessary traveling expenses, incurred by them in the discharge of their official duties, provided, however, that no member of the commission shall receive per diem allowance in excess of *one thousand dollars ($1,000)* annually. The governor shall appoint the members of said commission in the following manner: One shall be selected from the Montana Pilots' Association; one from Montanans, Incorporated; one from the Municipal League; one from the County Commissioners Association; one selected from among those actively engaged in aviation education in Montana; one to be selected by the governor as a representative of interstate commercial airline operators, who must at the time of appointment, be an employee or official of such an operator, and whose residence must be within the state of Montana; and one to be selected by the governor, who is an active base operator in the state at the time of his appointment or an official of such base operator of flying services, or flying schools.

State aeronautics commission created.

Seven persons appointed.

Per diem—$20.

Expenses.

Annual maximum —$1,000.

Qualifications.

(b) The members of the said commission shall serve for a period of four (4) years from date of their appointment and until their successors are appointed and qualified. Provided, however, that in making said appointments, the governor may shorten the term of two (2) of said appointees to any period of time less than four (4) years so that the terms of office of all seven (7) members of the commission shall not expire in the same year. The members of the commission may be removed by the governor after notice and hearing for inefficiency, neglect of duty or malfeasance in office."

Terms of office.

Removal—notice—hearing.

Approved March 15, 1971

CHAPTER NO. 348

An Act to Establish Uniform Construction Standards in Mobile Homes.

HeinOnline -- 1971 vol. II 1339 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. **Definitions.** As used in this act, unless the context clearly requires otherwise:

"Council."

(1) "Council" means the state building code council, as defined by section 69-2106, R.C.M. 1947.

"Mobile home."

(2) "Mobile home" means any dwelling unit larger than two hundred fifty-six (256) square feet in area which is either wholly or in substantial part manufactured at an off-site location and any movable or portable dwelling over thirty-two (32) feet in length and over eight (8) feet wide, constructed to be towed on its own chassis and designed without a permanent foundation for year-round occupancy, which includes one (1) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or of two (2) or more units separately towable but designed to be joined into one (1) integral unit, as well as a portable dwelling composed of a single unit.

"Recreational vehicle."

(3) "Recreational vehicle" means any movable or portable dwelling primarily designed as temporary living quarters for recreational, camping or travel use which either has its own motive power or is mounted on or drawn by another vehicle and which is less than thirty-two (32) feet in length.

Section 2. **Statement of policy.** Rule-making power.

Possible hazards to health, life and safety.

(a) Mobile homes and recreational vehicles, because of the manner of their construction, assembly and use and that of their systems, components and appliances (including heating, plumbing and electrical systems) like other finished products having concealed vital parts may present hazards to the health, life and safety of persons and to the safety of property unless properly manufactured. In the sale of mobile homes and recreational vehicles, there is also the possibility of defects not readily ascertainable when inspected by purchasers. It is the policy and purpose of this state to provide protection to the public against those possible hazards, and for that purpose to forbid the manufacture and sale of new mobile homes and recreational vehicles which are not so constructed as to provide reasonable safety and protection to their owners and users.

Possible defects.

Policy and purpose— protection of public.

HeinOnline -- 1971 vol. II 1340 1971

(b) The council shall, not later than January 1, 1972, promulgate rules and regulations embodying the fundamental principles adopted, recommended, or issued as USAS A119.1 and USAS A119.2 and amended from time to time by the United States of America Standards Institute (USASI), successor to the American Standards Association (ASA) and American national standards applicable to mobile homes and recreational vehicles as defined herein.

January 1, 1972—rules and regulations.

Section 3. **Compliance with the council's rules.** No person, firm or corporation may manufacture, sell, or offer for sale any mobile home or recreational vehicle which has been constructed more than twelve (12) months after the effective date of this act, unless such mobile home or recreational vehicle, its components, systems and appliances have been constructed and assembled in accordance with the standards herein defined. Any mobile-home or recreational-vehicle unit which has been approved by the council shall be deemed to be in full compliance with the standards and rules and regulations prescribed in this act. All mobile home or recreational vehicle units thus approved shall be acceptable as meeting the requirements of this act throughout the state of Montana without further inspection or fees except for zoning, utility connections and foundation permits required by local ordinance.

Standards required in construction.

Approval by council.

Section 4. **Fees.** The council shall establish a schedule of fees for the inspection of plans and specifications for mobile homes or recreational vehicles and for the inspection of individual units. The council may utilize independent testing laboratories or the agencies of other states to determine if approved models of mobile homes or recreational vehicles are being constructed in accordance with the approved plans and specifications for said models.

Inspection fees.

Use of testing facilities.

Approved March 15, 1971

CHAPTER NO. 349

An Act to Amend Section 75-6323, R.C.M. 1947, Relating to School Extracurricular Fund for Pupil Functions; and Providing for an Increase in the Audit Fee to Eighty Dollars ($80) Per Day Per Man the State Ex-

HeinOnline -- 1971 vol. II 1341 1971

aminer May Charge, and Such Audit Fee Deposited to the General Fund of the State.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-6323, R.C.M. 1947, is amended to read as follows:

"75-6323. **Extracurricular fund for pupil functions.** Schools may establish extracurricular funds. The government of the pupils of the school within a district or the administration of a school on behalf of the pupils may establish an extracurricular fund for the purposes of the receipts and expenditures of money collected for pupil extracurricular functions with the approval of the trustees of the district. All extracurricular monies of any pupil organization of the school shall be deposited and expended by check from a bank account maintained for the extracurricular fund.

Deposit.

Expenditure.

Accounting.

An accounting system for the extracurricular fund recommended by the state examiner shall be implemented by the trustees. Such accounting system shall provide for:

Internal control.

(1) the internal control of the cash receipts and expenditures of the money; and

General account.

(2) a general account that can be reconciled with the bank account for the extracurricular fund and reconciled with the detailed accounts within the extracurricular fund maintained for each student function.

Annual audit.

The trustees of the district shall cause an annual audit of the extracurricular fund by retaining a qualified accountant or the state examiner to perform such audit. Whichever person the trustees wish to retain, they shall notify the state examiner of their decision by the first day of January of the school fiscal year to be audited. If the state examiner performs the audit, a fee of *eighty dollars ($80)* per day per man shall be paid from the extracurricular fund or district monies to the state examiner for deposit in the state treasury *to the credit of the general fund.*

State examiner fee—$80 per day per person.

Filing.

The auditor shall file a certified copy of the audit report with the county superintendent. The county superintendent shall publish notice in a newspaper of the district or county of the filing and the fact that it is open to public inspection."

Publication.

Approved March 15, 1971

HeinOnline -- 1971 vol. II 1342 1971

CHAPTER NO. 350

An Act Amending Section 75-8705, R.C.M. 1947, Providing for Educational Opportunity at University System Units for Montana Indian Students of at Least One-Quarter (¼) Degree Indian Blood.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-8705, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-8705. **Indians — nonpayment of fees.** (1) Persons of one-fourth (1/4) Indian blood or more *and are bona fide residents of the state of Montana for at least one (1) year prior to enrollment in the Montana University system,* completing a four (4) year course of an accredited high school or federal Indian school showing *financial need and* evidence of studious and industrious habits, may enroll in the *University* system without the payment of fees. Persons of one-fourth Indian blood —enrollment in university system. Need. No fees required.

(2) *Each unit* shall make rules governing the selection of these students." Rules for selection.

Approved March 15, 1971

CHAPTER NO. 351

An Act Amending Section 75-8511, R.C.M. 1947, By Deleting Sections (3) and (4) in Their Entirety.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-8511, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-8511. **Powers of local executive boards.** Each local executive board shall: (1) Meet at least *once* in each quarter, and oftener if required. Meetings—local executive boards.

(2) Have such immediate direction and control, other than financial, of the affairs of the respective units as may be conferred by the regents." Duties.

Approved March 15, 1971.

HeinOnline -- 1971 vol. II 1343 1971

CHAPTER NO. 352

An Act to Amend Section 75-5602, R.C.M. 1947, Relating to the Membership of the Board of Education.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-5602, R.C.M. 1947, is amended to read as follows:

Board of education —eleven members.

"75-5602. **Membership.** The board of education shall have eleven (11) members, among whom the governor, the attorney general, and the superintendent of public instruction shall serve as ex officio members. The remaining eight (8) members shall be appointed by the governor with the advice and consent of the senate. Such appointments shall be subject to the following limitations: (1) they shall be equally divided among the congressional districts of the state of Montana;

Eight members appointed.

Limitations.

(2) not more than four (4) shall be affiliated with the same political party or organization;

Terms of office.

(3) their terms shall be eight (8) years and, except in the case of a vacancy, only one (1) member shall be appointed each year; and

Vacancies.

(4) when a vacancy occurs, the governor shall appoint a member for the remainder of the term of the incumbent, and such appointments to fill vacancies shall preserve the balance required by subsections (1) and (2) above.

Oath.

An appointed member of the board of education shall take and subscribe to the constitutional oath of office prescribed for civil officers and file it with the secretary of state before he shall have the capacity to act as a member of the board. He shall serve as a member of the board of education until his successor has been appointed and qualified.

Consideration of university system subjects— additional nonvoting member—students' representative.

(5) When the board is meeting to consider subjects relating to the university system of Montana there shall be an additional nonvoting member who shall be the students' representative member of the board. This students' representative member shall be one (1) of the student body presidents of the six (6) units of the university system and he shall be elected for a one (1) year term by a majority of the student body presidents. His term shall be from

Term.

HeinOnline -- 1971 vol. II 1344 1971

July 1 of the first year to June 30 of the following year. The students' representative member shall receive the same compensation as any other member and shall have the same rights as any other member of the board except as provided by this subsection."

Compensation.

Rights.

Approved March 15, 1971

CHAPTER NO. 353

An Act Amending Section 75-6503, R.C.M. 1947, to Reduce the Population Classification of First (1st) Class Elementary Districts from Eight Thousand (8,000) to Six Thousand Five Hundred (6,500).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-6503, R.C.M. 1947, is amended to read as follows:

Amending clause.

"75-6503. **District classification.** Each elementary district shall have a classification of: (1) first class, if it has a population of *six thousand five hundred (6,500)* or more;

Elementary district classifications based on population.

(2) second class, if it has a population of one thousand (1,000) or more but less than *six thousand five hundred (6,500);* or

(3) third class, if it has a population of less than one thousand (1,000).

The population of an elementary district shall be determined by the county superintendent on the basis of the best available population information for the district or; if the county superintendent deems it more equitable, he shall multiply by three (3) the approved number of school census children from the last completed census report of the district who are six (6) years of age or older but who have not reached their twenty-first *(21st)* birthday.

The county superintendent shall establish the classification of each elementary district in the county on the basis of the population determined for the district and the district classification criteria prescribed in this section. Whenever the population of an elementary district increases or decreases requiring an adjustment of the district classifica-

Duty of county superintendent to establish.

Change.

HeinOnline -- 1971 vol. II 1345 1971

tion according to the criteria prescribed in this section, the county superintendent shall declare such district's classification to be changed in accordance with the determined population, except that the classification of an elementary district shall not be changed more than once every five (5) years.

Additional trustee positions.

Whenever the county superintendent changes an elementary district's classification with the result that a larger number of trustees is required on the elementary board of trustees, the increased number of trustee positions shall be filled in the manner provided for filling trustee vacancies. Such positions shall be subject to election on the next regular school election day. If the county superintendent changes an elementary district's classification with the result that a lesser number of trustees is required, the next elementary trustee positions that become vacant under any circumstances shall not be filled until the number of elementary trustee positions has been reduced to the number required by law.

High school district classification.

The classification of a high school district shall be the same as the classification of the elementary district where the high school building is located. Whenever the classification of such elementary district is changed, the classification of a high school district shall be changed accordingly, and the county superintendent shall adjust the number of additional high school district trustee positions in accordance with the method prescribed in section 75-5905 for the determination of the number of additional trustee positions required for a high school district. An increased number of trustee positions shall be filled by the appointment of the county superintendent and such positions shall be subject to election at the next regular trustee election. When the number of positions is decreased, the next additional high school trustee positions that become vacant under any circumstances shall not be filled until the number of trustee positions has been reduced to the number required by law."

Change.

Additional trustee positions.

Approved March 15, 1971

CHAPTER NO. 354

An Act to Amend Section 84-301, R.C.M. 1947, Relating to Classification of Property for Taxation.

HeinOnline -- 1971 vol. II 1346 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-301, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"84-301. **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows: Taxable property classifications.

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation. Mines and claims.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds except mobile homes, boats and all watercraft, harness, saddlery and robes and except as provided in Class Five (b) of this section, all poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by all persons, firms, corporations, and other organizations which are engaged in the business of furnishing telephone communications, exclusively to rural areas, or to rural areas and cities and towns provided that any such city or town has a population of eight hundred (800) persons or less; and provided further, that the average circuit miles for each station on the system is more than one and one-quarter (1-1/4) miles. Personal property. Exceptions. Rural telephone equipment.

Class Three. Livestock, poultry and the unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith, except Livestock, poultry, merchandise, business furniture and fixtures.

HeinOnline -- 1971 vol. II 1347 1971

mobile homes; and all office or hotel furniture and fixtures.

Land, town and city lots, trailers, manufacturing and mining machinery, fixtures and supplies—exceptions.

Class Four. (a) All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract or purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five or Class Seven.

Mobile homes.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those held by a distributor or dealer of mobile homes as part of his stock in trade.

Moneys and credits.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms "moneys and credits" as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

Exemption.

Co-operative rural electrical and telephone equipment.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana *except those within the incorporated limits of a city or town in which less than ninty-five percent (95%) of the electric consumers and/or telephone users are served by a cooperative organization, and as to the property enumerated in this subsection (b) within incorporated limits of a city or town in which less than ninety-five percent (95%) of the electric consumers or users will be served by a cooperative organization, such property shall be put in class 2.*

Exceptions.

Agricultural products.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both.

Reclassification.

Class Six. Property formerly included in this class is now classified by section 84-308 of the Revised Codes of Montana, 1947.

HeinOnline -- 1971 vol. II 1348 1971

Class Seven. (a) All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state board of equalization, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961, within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agricultural, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner and form as may be required by said board.

New industrial property—defined.

Limitation—three year operation.

New industry defined.

Limitations.

Limitation—three year operation.

Application to state board.

(b) Freeport merchandise. Freeport merchandise means those stocks of merchandise manufactured or produced outside this state which are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state, for storage in transit prior to shipment to a final destination outside the state, and which have acquired a taxable situs within the state.

Freeport merchandise—defined.

Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

Status retained.

Any person, corporation, firm, partnership, association,

HeinOnline -- 1971 vol. II 1349 1971

Application to state board.

or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner or form as may be required by said board.

Rules and regulations.

The state board of equalization shall establish standards, rules and regulations for the guidance of county assessors and assessing freeport merchandise.

Improvements on real property—under $17,500—certain residents.

Class Eight. Any improvement on real property valued at not more than seventeen thousand five hundred dollars ($17,500), which is owned and actually occupied by a widow, with or without minor or dependent children, or by:

(1) a widow sixty-two (62) years of age or older, whether with or without minor dependent children, or

(2) a widower sixty-five (65) years of age or older, whether with or without minor dependent children, or

(3) a widow with minor or dependent children regardless of age, or

Limited retirement incomes.

(4) a recipient of retirement benefits whose income from all sources is not more than three thousand three hundred dollars ($3,300) for a single person and four thousand five hundred dollars ($4,500) for a married couple per annum. Provided, further, that one who applies for classification of property under this class must make an

Affidavit required.

affidavit before the county assessor of the county in which said property is located, on a form as may be provided by the state board of equalization supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with right of the county welfare board to investigate the applicant, on the completion

Value shall not increase.

of the form, as to answers given on the form. Provided, further that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Other property.

Class Nine. All property not included in the eight (8) preceding classes."

Approved March 15, 1971

HeinOnline -- 1971 vol. II 1350 1971

CHAPTER NO. 355

An Act to Amend Sections 84-1302 and 84-1303, R.C.M. 1947, to Provide for Changed Rates of License Taxation and Setting such New Rates; to Provide for a Changed Exemption and Setting Such Exemption and How it May Be Applied; Providing that the Montana State Bureau of Mines and Geology Shall Be Testing Agency for This Act and Giving the Bureau Rule-Making Authority for the Purposes of This Act; and Requiring that Samples of Coal Be Submitted to That Bureau; and Providing for a Limitation on Reclamation Tax Credit.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1302, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1302. **Strip coal mines license tax — amount — exceptions.** *(1)* Every person engaged in or carrying on the business of strip coal mining, or engaged in the business of working or operating any strip coal mine or strip coal mining property, in the state of Montana, from which marketable or merchantable coal of any kind is extracted or produced by means of strip mining, whether such person shall carry on such business or engage in such work or operations as owner, lessee, trustee, possessor, receiver, or in any other capacity, must for the year 1921, and each year thereafter, when engaged in or carrying on such business, work or operations, pay to the state treasurer, for the exclusive use and benefit of the state of Montana, a license tax for engaging in and carrying on such business, work and operations, in *the amounts listed in subsection (2) and subject to the exemption provided in subsection (3) on* marketable or merchantable coal extracted or produced by means of strip mining by such person in the state of Montana and shipped by such person during such year, or used by such person for any purpose except in connection with the operating of the strip coal mine or mining property from which the same was extracted or produced, by means of strip mining or delivered by such person to any other person for shipment, sale or use by such other person; provided, however, that nothing in this act shall be construed as requiring laborers or employees, hired or employed, by any person to mine coal, or to work in or about,

License tax— strip coal mine operators.

Amounts.

Exemption.

Limitations.

HeinOnline -- 1971 vol. II 1351 1971

or in connection with any strip coal mine to pay such license taxes, nor shall any work required to be done in prospecting for, or in developing, or in opening up any strip coal mine or strip coal mining property, be deemed to be the carrying on of a strip coal mining business, or the engaging in the business of working or operating of a strip coal mine; provided, further, that if during any such work of developing or opening up any strip coal mine or strip coal mining property, any marketable or merchantable coal shall be extracted or produced by means of strip mining and sold, then the same shall be deemed the carrying on of a strip coal mining business and the engaging in the business of working and operating a strip coal mine.

Strip coal mining business defined.

Computation of tax.

(2) The license tax to be paid under subsection (1) of this act shall be computed as follows:

For each ton of coal having a British thermal unit (hereafter, BTU) rating per pound of six thousand (6,000) or less, four cents ($.04) per ton.

For each ton of coal having a BTU rating of six thousand one (6,001) to seven thousand five hundred (7,500), six cents ($.06) per ton.

For each ton of coal having a BTU rating of seven thousand five hundred one (7,501) to nine thousand (9,000), eight cents ($.08) per ton.

For each ton of coal having a BTU rating of nine thousand one (9,001) and up, ten cents ($.10) per ton.

Annual exemption—5,000 tons.

(3) The person paying such license tax shall be entitled to exempt annually from said license tax a total of five thousand (5,000) tons of coal, and such exemption may be applied all to one British thermal unit rating, or may be spread among the several ratings, but the total exemption may not exceed, in any case, five thousand (5,000) tons in any one year.

Testing agency—bureau of mines and geology.

(4) The Montana state bureau of mines and geology (hereafter bureau) is designated as the testing agency for purposes of this act and is granted the right to promulgate rules and regulations to provide testing data required by this act. The rules and regulations promulgated under this act shall be structured to mutually protect the interest of the persons subject to the provisions of this act and the state of Montana.

Rules and regulations.

HeinOnline -- 1971 vol. II 1352 1971

(5) Every person subject to the provisions of this act shall on or before the first day of August of each calendar year submit to the bureau a sample of mine run "as is" coal from their coal production area. Additional sampling shall be required of the persons subject to this act at the request of the bureau. Submission of sample required.

(6) The bureau shall provide a form showing the results of the testing provided for under this act to the persons subject to this tax and the board of equalization prior to the first of September of each calendar year." Forms provided.

Section 2. Section 84-1303, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1303. **Payment of annual license tax.** Such annual license tax shall be paid in quarterly installments for the quarters ending, respectively, March 31st, June 30th, September 30th, and December 31st in each year, beginning with the quarter ending March 31, 1921, and the amount of the license tax due for each such quarter shall be paid to the state treasurer within thirty *(30)* days after the end of each such quarter provided that one-half (½) of the amounts reported to the state treasurer by the bureau of mines and geology as being the reasonable value of *on site* reclamation work performed by a licensee on lands on which strip mining has been conducted shall be credited to such licensee on the first quarterly payment of the license tax due after such report is received and on such subsequent quarterly payments until the licensee has received credit for the full amount thus reported*; and further providing that in no instance shall the tax credit exceed one cent ($.01) per ton on the coal removed from the reclamation area."* Quarterly installments. Credit. Limitation.

Approved March 15, 1971

CHAPTER NO. 356

An Act Relating to the Issue and Sale By the State Board of Examiners of Limited Obligation Highway Bonds in a Sum not Exceeding Seven Million Seven Hundred Ten Thousand Four Hundred Forty-Two and No/100 Dollars ($7,710,442.00) for the Purpose of Acquiring a Necessary Site for and Erecting and Equipping a State Highway Commission Headquarters

HeinOnline -- 1971 vol. II 1353 1971

Building and Complex; Providing that Said Bonds Shall Be Payable Solely from Net Proceeds from Gasoline Taxation; Pledging and Appropriating a Portion of Such Net Proceeds to a Special Sinking Fund Account; Reserving to the State the Power of Issuing Additional Highway Bonds Payable from the Sinking Fund Account When Authorized By Law, or of Refunding Such Bonds; Amending Sections 1, 3, 4, 6 and 7, Chapter 377, Laws of 1969, and Section 32-2601, R.C.M. 1947, Enacted By Section 4-301, Chapter 197, Laws of 1965; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 1, chapter 377, Laws of 1969, is amended to read as follows:

Limited obligation bonds authorized.

Highway commission complex.

Determination of necessary cost—administration of certain laws.

Expenditures.

Statement required—liability of state.

Ad valorem tax prohibited.

Payment of bonds and interest.

"Section 1. The state board of examiners of the state of Montana is hereby authorized to issue and sell *limited obligation highway* bonds for the purpose of acquiring a suitable site for, and erecting and equipping, a state highway commission headquarters building and complex at or near Helena, Montana, to replace the present shops, storage and administration buildings which are hereby declared to be inadequate for such purpose. *It is also determined that provision of adequate state highway commission facilities is a necessary cost of administering the laws under which money is derived from fees, excises and license taxes relating to registration, operation and use of vehicles on public highways and to fuels used for the propulsion of such vehicles, and of the construction, reconstruction, maintenance, and repair of public highways, roads, streets, and bridges, and that such money may properly and should be expended for the payment of highway obligations incurred for this purpose as provided in this act, within the meaning and contemplation of section 1b, article XII of the constitution.* All bonds issued hereunder, *and any additional bonds which may be authorized by the legislative assembly pursuant to section 3,* shall contain a statement that they are not and shall never become a debt or liability of the state of Montana within the meaning of any constitutional or statutory limitation or provision, and that no ad valorem tax may be levied upon property within the state of Montana to pay principal thereof or interest thereon, but that the bonds and interest are payable solely from that portion of the net proceeds from the taxation of gasoline pledged and appropriated to the sinking fund

HeinOnline -- 1971 vol. II 1354 1971

account as provided in this act, and shall contain the pledge of the state of Montana to continue to apply such net proceeds to the retirement of said bonds and the payment of interest thereon."

Section 2. Section 3, chapter 377, Laws of 1969, is amended to read as follows: Amending clause.

"Section 3. The aggregate amount of *highway* bonds authorized by this act for the purpose expressed *in section 1,* shall not exceed the sum of *seven million seven hundred ten thousand four hundred forty-two and no/100 dollars ($7,710,442.00). The state reserves the privilege of issuing additional highway bonds, when and if authorized by law, for this purpose and for any other purpose for which money derived from the sources described in section 1b, article XII of the constitution is authorized by that section to be expended. The state board of examiners is also authorized to issue additional highway bonds for the purpose of refunding bonds issued pursuant to or as contemplated in this act, in amounts not exceeding the principal amount of the bonds refunded, when the board determines that the refunding of any outstanding bonds is in the best interests of the state. All bonds issued for the purposes contemplated in this section shall be payable from the sinking fund account on a parity as to both principal and interest with the bonds authorized in section 1, provided that in the issuance of each series of such bonds the amount, maturities and interest rates thereof shall be fixed in such manner that the maximum amount of principal and interest to become due in any subsequent fiscal year on such bonds then outstanding (except bonds refunded) and on the series so to be issued will not exceed twenty-five percent (25%) of the amount collected during the then next preceding fiscal year from the tax or taxes pledged by law to the sinking fund account at the time of such issuance.*" Maximum amount—highway bonds. Additional bonds. Refunding. Payable from sinking fund account. Limitations.

Section 3. Section 4, chapter 377, Laws of 1969, is amended to read as follows: Amending clause.

"Section 4. Such bonds shall be issued by the board, upon request of the controller, in such denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the execution and delivery of *definitive* Procedure for issuance—provisions.

HeinOnline -- 1971 vol. II 1355 1971

Redemption.

bonds, bearing interest, maturing at such times not exceeding twenty (20) years from date of issue, subject to redemption at such earlier times and prices and upon such notice, and payable at the office of such fiscal agent of the state of Montana, as the board shall determine, subject to the limitations contained herein."

Amending clause.

Section 4. Section 6, chapter 377, Laws of 1969, is amended to read as follows:

Deposit of proceeds.

"Section 6. All proceeds of bonds issued hereunder shall be deposited in a separate *highway* subfund which is created within the bond and insurance clearance fund established by section 79-410, R.C.M., 1947, *referred to herein as the "clearance fund account"*, and shall be segregated by the treasurer from all other money in that or any other fund in the state treasury. *The proceeds of the bonds authorized in section 1 shall be* used only to pay costs of acquiring land for and erecting and equipping the buildings herein referred to, upon order of the controller acting within the limits of the authority conferred upon him by the legislative assembly and said proceeds are hereby appropriated for the purposes of the capital items herein described. *The proceeds of any additional bonds authorized as contemplated in section 3, except refunding bonds, shall be used only for purposes permitted in section 1b, article XII of the constitution, upon order of the controller acting within the limits of the authority conferred upon him by the legislative assembly."*

Use of proceeds.

Appropriation.

Use of proceeds—additional bonds.

Amending clause.

Section 5. Section 7, chapter 377, Laws of 1969, is amended to read as follows:

Appropriation—gasoline taxes.

"Section 7. (a) The state hereby pledges and appropriates and directs to be credited as received to the sinking fund account, as herein defined, that portion of the net proceeds from the collection of gasoline taxes as may from time to time be needed to comply with the principal and interest and reserve requirements stated in subsection (b) of this section. The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received as net proceeds from the collection of gasoline taxation. *The term "net proceeds", as used herein, means all funds on hand in the treasury of the state as of any date, derived from the collection of the license tax imposed on gasoline distributors by section 84-1847, R.C.M., 1947, enacted by section 3, chapter 369,*

Priority.

"Net proceeds" defined.

HeinOnline -- 1971 vol. II 1356 1971

Laws of 1969, or by any subsequent enactment, less the amount of all refunds of such taxes for which applications have been made pursuant to law but which have not yet been paid or rejected. The term "sinking fund account", as used herein, means a separate *highway* subfund which is created within the sinking fund established by section 79-410, R.C.M., 1947, and shall be segregated by the treasurer from all other money in that or any other fund in the treasury and used only to pay *highway* bonds and interest thereon when due, so long as any such bonds or interest remain unpaid.

"Sinking fund account" defined.

(b) Money in the sinking fund account shall be used first, to pay interest in principal when due on *highway* bonds; second, to accumulate a reserve in the amount required below, for the further security of such payments; and third, to maintain this reserve in an amount at least equal, after each interest and principal payment, to one and one-half *(1 1/2)* times the maximum amount of interest and principal which will become due on all such bonds which are then outstanding in any subsequent fiscal year.

Allocation of moneys.

(c) Money at any time received in the sinking fund account in excess of the principal, interest and reserve requirements stated in subsection (b) shall be transferred by the treasurer to the earmarked revenue fund—highway account. If the balance at any time on hand in the sinking fund account is not sufficient for compliance with subsection (b), the treasurer shall credit to said account an amount sufficient to restore said balance from the next receipts of net proceeds from the collection of gasoline taxes."

Transfer of excess money.

Restoration of balance.

Section 6. Section 32-2601, R.C.M., 1947, enacted by section 4-301, chapter 197, Laws of 1965, and amended by section 1, chapter 251, Laws of 1967, is further amended to read as follows:

Amending clause.

"32-2601. **Distribution and use of proceeds of gasoline dealers' license tax.** All money received in payment of license taxes under the provisions of *sections 84-1845 to 84-1855,* except *those* amounts paid out of the state board of equalization's supense account for gasoline tax refund shall be used and expended *as provided in this section. So much of such money on hand at any time as may be needed to pay highway bonds and interest thereon when due and to accumulate and maintain a reserve therefor,*

Use of proceeds—gasoline dealers' license taxes.

Deposit of money in highway bond account.

HeinOnline -- 1971 vol. II 1357 1971

as provided in laws and in resolutions of the state board of examiners authorizing such bonds, shall be deposited in the highway bond account in the sinking fund established by section 79-410. The legislative assembly hereby finds as a fact that the principal and interest and reserve requirements of bonds so authorized are a necessary cost of administering laws under which gasoline license taxes are derived, payment of highway obligations, and cost of construction, reconstruction, maintenance and repair of public highways, roads, streets, and bridges pursuant to the provisions of article XII, section 1b of the constitution of the state of Montana. Subject to the foregoing provision, six-tenths of one percent (.6%) of all such money shall be deposited in the state park account in the earmarked revenue fund. All of the remainder of such money shall be used and expended by the state highway commission on the federal-aid highways in this state selected and designated under the provisions of the Federal-Aid Act, approved July 11, 1916, and the Federal Highway Act, approved November 9, 1921, and all amendments thereto, and on highways leading from each county seat in the state to said federal highway system of federal-aid roads where such county seat is not on said system, and on such other roads as have been or may be authorized by the laws of Montana, *and* for collection *of the license taxes* and *the* enforcement of *the Montana highway code,* pursuant to the provisions of article XII, section 1b of the constitution of the state of Montana. If shall be the duty of the state highway commission, in expending such money, to carry forward construction from year to year, using the money expended through the matching up of federal-aid allotments to Montana upon the said federal highway system of highways in the various parts of the state in accordance with the provisions of sections 32-2605 through 32-2607; provided that nothing in this act shall be construed to conflict with said federal-aid highway acts and the rules by which they are administered. The state highway commission is authorized to enter into cooperative agreements with the national park service and the bureau of public roads for the purpose of maintaining national park approach roads in Montana.

Determination of necessary cost of administration.

Deposit in state park account.

Expenditures—federal aid highways.

County seat highways.

Others.

Duty of commission—year to year construction.

National park approach roads.

Use of money—state park account.

Money credited to the state park account in the earmarked revenue fund shall be used only for the creation, improvement, and maintenance of state parks where motor boating is allowed, except for the payment of

HeinOnline -- 1971 vol. II 1358 1971

refunds as provided in section 84-1818, R.C.M., 1947. The legislative assembly hereby finds as a fact that of all the fuel sold in the state of Montana for consumption in internal combustion engines, not less than six-tenths of one per centum (.6%) is used for propelling boats on waterways of this state."

Legislative finding —fuel consumption by boats.

Section 7. This law shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 15, 1971.

CHAPTER NO. 357.

An Act Amending Section 84-4908, R.C.M., 1947, by Deleting a Provision Relating to a Federal Income Tax Deduction; Providing Effective Dates.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-4908, R.C.M., 1947, is amended to read as follows:

Amending clause.

"84-4908. **Alternative deduction allowed in computing net income.** In the case of a resident individual, a standard deduction equal to ten percent (10%) of adjusted gross income shall be allowed if elected by the taxpayer on his return. The standard deduction shall be in lieu of all deductions allowed under section 84-4906, R.C.M., 1947. The maximum standard deduction shall be five hundred dollars ($500) except in the case of a single joint return of husband and wife the maximum standard deduction shall be one thousand dollars ($1,000). The standard deduction shall not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination of whether an individual is married shall be made as of the last day of the taxable year; provided, however, if one of the spouses dies during the taxable year, the determination shall be made as of the date of death."

Standard deduction —10% of adjusted gross income— allowed resident taxpayer.

Maximums.

Determination of marital status.

Section 2. The provisions of this act shall be effective for taxable years beginning on and after January 1, 1971.

Effective January 1, 1971.

HeinOnline -- 1971 vol. II 1359 1971

Effective immediately.

Section 3. This act shall be effective upon passage and approval.

Approved March 15, 1971.

CHAPTER NO. 358.

An Act Amending Section 84-1502, R.C.M., 1947, to Provide for a Net Operating Loss Deduction in Computing Net Income for Corporation License Tax Purposes, and to Delete the Deduction in Subsection (6) Relating to Insurance Companies which Deduction Has no Application to the Law.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1502, R.C.M., 1947, is amended to read as follows:

Deductions allowed corporations—computation of net income.

"84-1502. **Deductions allowed in computing income.** In computing the net income the following deductions shall be allowed from the gross income received by such corporation within the year from all sources: (1) All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

Limitation.

Losses.

Depreciation.

Exclusions.

(2) *(A)* All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear of property arising out of its use or employment in the business or trade. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements or betterments made to increase the value of

HeinOnline -- 1971 vol. II 1360 1971

any property or estate and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

(B) (a) There shall be allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of this subsection. The net operating loss deduction is the aggregate of net operating loss carryovers to such taxable period plus the net operating loss carrybacks to such taxable period. The term 'net operating loss' means the excess of the deductions allowed by this section, 84-1502, over the gross income, with the modifications specified in paragraph (b) of this subsection. If for any taxable period beginning after December 31, 1970, a net operating loss is sustained, such loss shall be a net operating loss carryback to each of the three (3) taxable periods preceding the taxable period of such loss and shall be a net operating loss carryover to each of the five (5) taxable periods following the taxable period of such loss. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the net income for each of the prior taxable periods to which such loss was carried. For purposes of the preceding sentence, the net income for such prior taxable period shall be computed with the modifications specified in paragraph (b) (ii) of this subsection and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss period or any taxable period thereafter, and the net income so computed shall not be considered to be less than zero.

Net operating loss deduction—determination.

'Net operating loss' defined.

Carryback.

Determination.

Computation.

(b) The modifications referred to in paragraph (a) of this subsection shall be as follows:

Modifications.

(i) No net operating loss deduction shall be allowed.

(ii) The deduction for depletion shall not exceed the amount which would be allowable if computed under the cost method.

(c) A net operating loss deduction shall be allowed only with regard to losses attributable to the business carried on within the state of Montana.

Loss limited to business in Montana.

(d) In the case of a merger of corporations, the surviving corporation shall not be allowed a net operating loss

In case of merger.

HeinOnline -- 1971 vol. II 1361 1971

deduction for net operating losses sustained by the merged corporations prior to the date of merger.

Consolidation.

In the case of consolidation of corporations, the new corporate entity shall not be allowed a deduction for net operating losses sustained by the consolidation.

Interest not paid.

(e) Notwithstanding the provisions of section 84-1508-1 (c), R.C.M., 1947, interest shall not be paid with respect to a refund of tax resulting from a net operating loss carryback or carryover.

Taxable periods.

(f) The net operating loss deduction shall not be allowed with respect to taxable periods which ended on or before December 31, 1970, but shall be allowed only with respect to taxable periods beginning on or after January 1, 1971.

Depletion allowance—mines, oil and gas, timber.

3. In the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the state board of equalization; provided, however, for the purpose of determining depletion, depreciation and obsolescence, in all cases not expressly provided for in this act, the provisions of the most recent act of Congress of the United States, commonly known as the Federal Income Tax Act, and the rules, regulations and decisions thereunder, in so far as the same are applicable and pertinent and not repugnant to or inconsistent with the express provisions of this act, shall be the rule of decision by the state board of equalization.

Determination.

Federal act—rule of decision.

Interest paid.

4. The amount of interest paid within the years on its indebtedness incurred in the operation of the business from which its income is derived; but no interest shall be allowed as a deduction if paid on an indebtedness created for the purpose, maintenance or improvement of property or for the conduct of business unless the income from such property or business would be taxable under this act.

Taxes paid—exceptions.

5. Taxes paid within the year except the following: (a) Taxes imposed by this act.

(b) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed.

HeinOnline -- 1971 vol. II 1362 1971

(c) Taxes on or according to or measured by net income *or* profits imposed by authority of the government of the United States.

Taxes deductible under this act shall be construed to include taxes imposed by any county, school district or municipality of this state.

Section 2. This act is effective upon its passage and approval. Effective immediately.

Approved March 15, 1971.

CHAPTER NO. 359.

An Act to Amend Section 92-706, R.C.M., 1947, so as to Delete the Five Thousand Dollars Limitation in Payment of Medical Benefits; Delete References to Hospital Contracts; and Provide for Stabilization of Hospital Fees and Charges.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 92-706, R.C.M., 1947, is hereby amended to read as follows: Amending clause.

"92-706. **Medical and hospital services and such other treatment as approved by the board to be furnished.** In addition to the compensation provided by this act and as an additional benefit separate and apart from compensation, the following shall be furnished: Additional benefits.

During the first thirty-six (36) months after the happening of the injury, the employer or insurer or the board, as the case may be, shall furnish reasonable services by a physician or surgeon, reasonable hospital services and medicines when needed, and such other treatment approved by the board. During 36 months after injury—medical and hospital treatment furnished.

The employer or insurer or the board shall not be required to furnish such services if the employee refuses to allow them to be furnished.

And be it further provided, that where an injury arising out of and received in the course of employment necessarily results in the loss by amputation of an arm, hand, leg or foot, or the enucleation of an eye, or the loss of any of the natural teeth, the industrial accident Artificial members furnished.

HeinOnline -- 1971 vol. II 1363 1971

board may, in its discretion, order that an artificial member be furnished to supply the loss of any such member or members so lost. The board may also order the replacement or repair of any prosthetic appliance damaged in an industrial accident. Such artificial members shall be furnished at the expense of the employer, the insurer, or the *board, as the case may be.* The replacement of an artificial member so furnished shall be required every five (5) years, if necessary, unless the board shall determine a replacement is needed within a shorter period.

Allocation of costs.

Replacement.

Hospitals required to submit schedule of fees.

All hospitals must submit a schedule of fees and charges which shall be limited to such charges as prevail in the same hospital for similar treatment of private patients, for such services and medicines, as requested by the board, to be charged for treatment of injured workman under this section for a one-year period commencing each January 1, and shall submit such schedule no later than thirty (30) days prior to the commencement of such period."

Approved March 15, 1971.

CHAPTER NO. 360.

An Act to Amend Section 71-1001, R.C.M., 1947, and Section 71-1003, R.C.M., 1947, to Define the Disability Necessary to Qualify for Silicosis Benefits, and Provide for Payment of Benefits to Beneficiaries in Certain Cases.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-1001, R.C.M., 1947, is amended to read as follows:

Definitions— "payments."

"71-1001. **Definitions.** (a) "Payments" means money payments to persons having silicosis as herein defined.

"Silicosis."

(b) "Silicosis" means a fibrotic condition of the lungs due to the inhalation of silica dust.

"Examining board."

(c) "Examining board" shall mean well qualified physician or physicians, as designated by the industrial accident board."

Amending clause.

Section 2. Section 71-1003, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1364 1971

"71-1003. **Eligibility requirements for aid to persons having silicosis, as herein defined.** Payment shall be made under this act to any person who: Payments to persons having silicosis.

(a) Has silicosis, as defined in section 71-1001, of the Revised Codes of Montana, 1947, which results in his total disability so as to *render it impossible for him to follow continuously any substantially gainful occupation.* The term "gainful occupation" as used herein shall not be construed to mean occasional or intermittent light employment where the ability to do manual labor is not essential, but shall mean any person having an income from any other source exceeding one hundred fifty dollars ($150.00) per month. "Gainful occupation" defined.

(b) Has resided in and been an inhabitant of the state of Montana for ten (10) years, or more, immediately preceding the date of the application. Residency.

(c) If any person who is entitled to benefits under this act shall be an inmate in any Montana state institution, benefits shall not be paid to him, but shall be paid his beneficiary, if any, as defined in section 92-413, R.C.M., 1947. Inmates.

(d) Is not receiving, with respect to any month for which he would receive a payment under this act, compensation under the Workmen's Compensation Act of the state of Montana, as provided by chapter 260, Laws of 1969, which will equal the sum of one hundred forty dollars ($140.00) hereunder. If he is receiving payments under the Workmen's Compensation Act, as provided by chapter 260, Laws of 1969, which is less in the aggregate than one hundred forty dollars ($140.00), then he is entitled to a payment under this act of the difference between the amount received under the Workmen's Compensation Act, as provided by chapter 260, Laws of 1969, and one hundred forty dollars ($140.00) per month." Other compensation—limitations.

Approved March 15, 1971.

CHAPTER NO. 361.

An Act to Prohibit the Removal of Patients from State Custodial Institutions Without Permission of the Staff.

HeinOnline -- 1971 vol. II 1365 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Penalties for aiding escape of state inmates.

Section 1. A person other than a parent or one having legal custody of the person of the patient or inmate who permits or assists a resident patient or inmate of a state custodial institution to leave the institution without permission from the properly authorized member of the staff or proper court order, is guilty of a misdemeanor and upon conviction, is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding five hundred dollars ($500), or both.

Does not apply to prison.

Nothing herein is to be construed to conflict with laws relative to inmates of the Montana state prison.

Approved March 15, 1971.

CHAPTER NO. 362.

An Act to Prohibit the Sale or Distribution of Alcoholic Beverages and Drugs to Patients at State Custodial Institutions.

Be it enacted by the Legislative Assembly of the State of Montana:

Penalties for supplying liquor to state inmates.

Section 1. A person who knowingly sells or distributes, or attempts to sell or distribute, alcoholic beverages or drugs to the resident patients or inmates of a state custodial institution without permission of the medical staff, is guilty of a misdemeanor and upon conviction, is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding five hundred dollars ($500), or both.

Does not apply to prison.

Nothing herein is to be construed to conflict with laws relative to inmates of the Montana state prison.

Approved March 15, 1971.

CHAPTER NO. 363.

An Act to Amend Section 92-1403, R.C.M., 1947, to Delete the Words "Away from Home"; and Increasing the Allowed Expenses of a Workman Receiving Training.

HeinOnline -- 1971 vol. II 1366 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 92-1403, R.C.M., 1947, is amended to read as follows: Amending clause.

92-1403. **Expenses payable to workman receiving training.** The eligibility of any injured workman to receive other benefits under the Workmen's Compensation Act of the state of Montana shall in no way be affected by his entrance upon a course of vocational rehabilitation as herein provided, but he *may* be paid, in addition thereto, upon the certification of the vocational rehabilitation division from funds herein provided, (1) his actual and necessary travel expenses from his place of residence to the place of training, and return, (2) his living expenses while in training in an amount not in excess of *fifty* dollars *($50)* per week, his expenses for tuition, books and necessary equipment in training." Vocational rehabilitation expenses provided.

Approved March 15, 1971.

CHAPTER NO. 364.

An Act to Amend Sections 66-2326, 66-2337 and 66-2344, R.C.M., 1947, to Provide for a Comprehensive Definition of the Term "Practice of Engineering", to Provide for the Increase of Fees for Registration, and to Provide for the Repeal of All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-2326, R.C.M., 1947, is amended to read as follows: Amending clause.

"66-2326. **Definitions.** The term "engineer" as used in this act shall mean a professional engineer as hereinafter defined. Definitions—"engineer."

The term "professional engineer" within the meaning and intent of this act shall mean a person who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as hereinafter defined, as attested by his legal registration as a professional engineer. "Professional engineer."

HeinOnline -- 1971 vol. II 1367 1971

"Engineer-in-training."

The term "engineer-in-training" as used in this act shall mean a candidate for registration as a professional engineer who is a graduate in an engineering curriculum of four years or more from a school or college approved as of satisfactory standing by the engineers' council for professional development or its successor as an agency evaluating professional engineering curricula, or equivalent curricula as approved by the board, or who has had four years or more of experience in engineering work of a character satisfactory to the board; and who, in addition, has successfully passed the examination in the fundamental engineering subjects as provided in section 66-2338,, and who shall have received from the board, as hereinafter defined, a certificate stating that he has successfully passed this portion of the professional examinations.

"Practice of engineering."

The term "practice of engineering" within the meaning and intent of this act shall mean any professional service or creative work requiring engineering education; training, and experience and the application of such special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, *engineering planning service performed in connection with city, county, regional and state planning,* design, and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, and including such architectural work as is incidental to the practice of engineering.

Exclusions.

The practice of engineering shall not include the work ordinarily performed by persons who operate or maintain machinery or equipment, or communication lines or signal circuits, or electric power lines or pipelines.

"Land surveyor."

The term ''land surveyor'' as used in this act shall mean a person who engages in the practice of land surveying as hereinafter defined.

Practice of land surveying.

The practice of land suveying within the meaning and intent of this act includes surveying of areas for their correct determination and description and for conveyancing, or for the establishment or reestablishment of land boundaries and the plotting of lands and subdivisions thereof.

HeinOnline -- 1971 vol. II 1368 1971

The term "board" as used in this act shall mean the state board of registration for professional engineers and land surveyors provided for by this act." "Board."

Section 2. Section 66-2337, R.C.M., 1947, is amended to read as follows: Amending clause.

"66-2337. **Application for registration—fees.** Applications for registration shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and detailed summary of his technical work, and shall contain not less than five references, of whom three or more shall be engineers or land surveyors having personal knowledge of his engineering or land surveying experience. Application requirements.

The registration fee for professional engineers shall be *thirty-five dollars ($35), twenty dollars ($20)* of which shall accompany application, the remaining *fifteen dollars ($15)* to be paid upon issuance of certificate. When a certificate of qualification issued by the national bureau of engineering registration is accepted as evidence of qualification, the total fee for registration as professional engineer shall be *twenty dollars ($20).* Registration fees.

The fee for engineer-in-training shall be *twenty dollars ($20),* which shall accompany the application and shall include the cost of examination and issuance of certificate. When certification as an engineer-in-training by another state, or any territory or possession of the United States or any country, is accepted as evidence of qualification, the fee for engineer-in-training in Montana shall be *five dollars ($5).* When registration as a professional engineer is completed by an engineer-in-training, an additional fee of *fifteen dollars ($15)* shall be paid before issuance of certificate as a professional engineer.

The registration fee for land surveyors shall be *thirty-five dollars ($35),* which shall accompany the application. The fee for registration as both a professional engineer and land surveyor shall be *fifty dollars ($50), thirty-five dollars ($35)* of which shall accompany the application, the remaining *fifteen dollars ($15)* to be paid upon issuance of certificate.

Should the board deny the issuance of a certificate of registration to any applicant the initial fee deposited shall be retained as an application fee." Retention.

HeinOnline -- 1971 vol. II 1369 1971

Amending clause.

Section 3. Section 66-2344, R.C.M., 1947, is amended to read as follows:

Registration by other states or authorities.

"66-2344. **Registration of persons registered by other states or authorities.** The board may, upon application therefor, and the payment of a fee of *twenty dollars ($20),* issue a certificate of registration as a professional engineer to any person who holds a certificate of qualification or registration issued to him by proper authority of the national bureau of engineering registration, or of any state or territory or possession of the United States, or of any country, provided that the applicant's qualifications meet the requirements of this act and the rules established by the board."

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are repealed.

Approved March 15, 1971.

CHAPTER NO. 365.

An Act Amending Section 25-604, R.C.M., 1947, Relating to Salaries of Deputies.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 25-604, R.C.M., 1947, is amended to read as follows:

Authority to fix compensation county deputies and assistants.

"Section 25-604. **County commissioners to fix salaries of deputies—limitations.** That the boards of county commissioners in the several counties in the state shall have the power to fix the compensation allowed any deputy or assistant mentioned in the preceding section except as herein provided: provided the salary of no deputy or assistant shall be more than ninety percent (90%) of the salary of the officer under whom such deputy or assistant is serving; except as herein provided; where any deputy or assistant is employed for a period of less than one (1) year the compensation of such deputy or assistant shall be for the time so employed; provided, the rate of such compensation shall not be in excess of the rates now provided by law for similar deputies and assistants, except as herein provided; said boards of county commissioners shall likewise have the power to fix and determine the

Limitations.

Authority to determine number.

HeinOnline -- 1971 vol. II 1370 1971

number of deputy county officers and allow to the several county officers a greater or less number of deputies or assistants, than the maximum number allowed by law, when in the judgment of the board of county commissioners such greater or less number of deputies is or is not needed for the faithful and prompt discharge of the duties of any county office; provided that after this act becomes effective the maximum salary rate per month of any deputy or assistant should not be less than the maximum salary allowed in any month of the year immediately previous to the date this act becomes effective. In fixing the compensation allowed the undersheriff the board must fix the same ninety-five percent (95%) of the salary of the officers under whom such undersheriff is serving; in fixing the compensation allowed the deputy sheriffs the board must fix the same at ninety percent (90%) of the salary of the officer under whom such deputy sheriff is serving, *except in counties of the first, second, or third class in which the board must fix the same at not less than seventy-five percent (75%) nor more than ninety percent (90%) of the salary of the officer under whom such deputy sheriff is serving; provided, however, that no deputy sheriff presently employed may be paid less than the compensation he is receiving on the effective date of this act.*"

Maximum salary rate.

Compensation of undersheriffs.

Deputy sheriffs.

Approved March 15, 1971.

CHAPTER NO. 366.

An Act to Provide Compensation for Loss of Hearing Resulting from Exposure to Industrial Noise.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is enacted a new section in lieu of former section 92-710, R.C.M., 1947, heretofore repealed, to be numbered section 92-710, R.C.M., 1947, the provisions of which shall be administered under the Industrial Accident Board as part of the Workmen's Compensation Act, as follows:

92-710. Regardless of other definitions of injury and time limitations imposed by this act, there shall be compensation awarded for occupational deafness as follows:

Compensation for deafness provided.

HeinOnline -- 1971 vol. II 1371 1971

Definitions—"occupational deafness."

(1) "Occupational deafness" means permanent partial or permanent total loss of hearing of one or both ears due to prolonged exposure to noise in employment.

"Noise."

"Noisy employment."

"Noise" means sound capable of producing occupational deafness. "Noisy employment" means employment in the performance of which an employee is subjected to noise.

Losses of hearing—frequencies.

(A) Losses of hearing due to industrial noise for compensation purposes shall be confined to the frequencies of 500, 1000, and 2000 cycles per second. Loss of hearing ability for frequency tones above 2000 cycles per second is not to be considered as constituting disability for hearing.

Calculation—percent of hearing loss.

(B) The percent of hearing loss, for purposes of the determination of compensation claims for occupational deafness, shall be calculated as the average, in decibels, of the thresholds of hearing for the frequencies of 500,

Measurement.

1000 and 2000 cycles per second. Pure tone air conduction audiometric instruments, approved by nationally recognized authorities in this field, shall be used for measuring

Determination for compensation.

hearing loss. If the losses of hearing average 26 decibels or less in the three frequencies, as measured under ISO Standard 1964, such losses of hearing shall not then constitute any compensable hearing disability. If the losses of hearing average 94 decibels or more in the three frequencies, as measured under ISO Standard 1964, then the same shall constitute and be total or 100 per cent compensable hearing loss.

Determination of hearing impairment.

(C) In measuring hearing impairment the lowest measured losses in each of the three frequencies shall be added together and divided by three to determine the average decibel loss. For every decibel of loss exceeding 24 decibels an allowance of one and one-half percent (1½%) shall be made up to the maximum of one hundred percent (100%), which is reached at 94 decibels.

Binaural percentage of loss.

(D) In determining the binaural percentage of loss, the percentage of impairment in the better ear shall be multiplied by five (5). The resulting figure shall be added to the percentage of impairment in the poorer ear and the sum of the two divided by six (6). The final percentage shall be representative of the binaural hearing impairment.

Deductions.

(E) Before determining the percentage of hearing impairment, in order to allow for the average amount

HeinOnline -- 1971 vol. II 1372 1971

of hearing loss from non-occupational causes found in the population at any given age, there shall be deducted from the total average decibel loss, one-half decibel for each year of the employee's age over forty at the time of last exposure to industrial noise.

Exclusion—hearing aid.

(F) No consideration shall be given to the question of whether or not the ability of an employee to understand speech is improved by the use of a hearing aid.

No benefits for temporary loss.

(2) No benefits shall be payable for temporary total or temporary partial disability under this act for loss of hearing due to prolonged exposure to noise.

Compensation—wage loss.

(3) An employee who because of occupational deafness is transferred by his employer to other employment and thereby sustains actual wage loss, shall be compensated at the rate provided in section 92-703, Revised Codes of Montana, 1947, as amended, not exceeding three thousand five hundred dollars ($3,500) in the aggregate from all employers. "Time of injury", "incurred such injury", "date of injury" in such case shall be the date of wage loss.

Rates of compensation.

(4) Subject to the limitations herein contained, there shall be payable for total occupational deafness of one ear, forty (40) weeks of compensation; for total occupational deafness of both ears, two hundred (200) weeks of compensation; and for partial occupational deafness, compensation shall bear such relation to that named herein as disabilities bear to the maximum disabilities herein provided.

Date of occurrence defined.

In cases covered by this subsection, "time of injury", "incurred such injury" or "date of injury" shall be exclusively the date of occurrence of any of the following events to an employee:

(a) Transfer because of occupational deafness to non-noisy employment by an employer whose employment has caused occupational deafness;

(b) Retirement;

(c) Termination of the employer-employee relationship;

(d) Layoff, provided the layoff is complete and continuous for one year;

HeinOnline -- 1971 vol. II 1373 1971

Six months limitations—filing.

(e) No claim under this subsection shall be filed, however, until six (6) consecutive months of removal from noisy employment after the time of injury except that under subparagraph (d), such six (6) consecutive months period may commence within the last six (6) months of layoff.

Limitation provisions.

(5) The limitation provisions in this act shall control claims arising under this subsection. Such provisions shall run from the first date upon which claim may be filed, or from the date of subsequent death, provided that no claim shall accrue to any dependent unless an award has been issued or liability admitted.

Claimant must have worked ninety days.

(6) No payment shall be made to an employee under this section unless he shall have worked in noisy employment for a total period of at least ninety (90) days for the employer from whom he claims compensation.

Credit of payments.

(7) Any amount paid to an employee under this section by an employer shall be credited against compensation payable by any employer to such employee for occupational deafness under subsections (3) and (4). No employee shall in the aggregate receive greater compensation from any or all employers for occupational deafness than that provided in this section for total occupational deafness.

Occupational deafness distinguished.

(8) Occupational deafness as herein provided is distinguished from traumatic loss of hearing which is governed by the specific loss schedule hereinabove.

Liability of employer.

(9) An employer shall become liable for the entire occupational deafness to which his employment has contributed; but if previous deafness is established by hearing test or other competent evidence, whether or not the employee was exposed to noise within the six (6) months preceding such test, he shall not be liable for previous loss so established nor shall he be liable for any loss for which compensation has previously been paid or awarded.

Exposure.

(10) No claim shall be filed, however, unless the employee is exposed eight (8) hours daily and for a period of at least ninety (90) days as above required to noise intensity levels above 100 decibels.

Effective January 1, 1972.

(11) This act shall become effective January 1, 1972.

Approved March 15, 1971.

HeinOnline -- 1971 vol. II 1374 1971

CHAPTER NO. 367.

An Act Amending Section 80-2210, R.C.M., 1947, Relating to Recommutation of Sentence of Persons Under the Age of Twenty-one Years Who Had Been Sentenced to Prison and to the Commitment of Such Person to the Department of Institutions and to the Transfer of Such Person to a Juvenile Facility by Providing that Prisoners of the State Prison of the Age of Twenty-Five or Younger May Be Transferred from the Prison to the Swan River Youth Forest Camp and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 80-2210, R.C.M., 1947, is hereby amended to read as follows: Amending clause.

"80-2210. (1) Upon the application of a *person* under the age of twenty-one (21) years who has been sentenced to the state prison, or upon the application of his parents or guardians, the governor may, after consulting with the department of institutions and with the approval of the board of pardons, commute the sentence by committing such *person* to the department of institutions during his minority or until sooner placed or discharged. Commutation of sentence—person under 21. Commitment to department of institutions.

(2) If such *person's* behavior after being committed to the department of institutions indicates that he is not a proper person to reside at one of the department's juvenile facilities, the governor after consulting with the department of institutions with the approval of the board of patrons, may revoke the commutation and return him to the state prison to serve out his unexpired term, and the time spent by him at one of the department juvenile facilities or while a refugee from one of the department juvenile facilities, shall not be considered as a part of his original sentence. Revocation for behavior. Return to prison.

Upon recommendation of the warden and with the approval of the department of institutions a *person* under the age of twenty-one (21) years, who has been sentenced to the state prison, may be transferred to any juvenile facility under the jurisdiction and control of the department. *Provided, further, however, that upon recommendation of the warden and approval of a person sentenced to the state prison, or application of a person sentenced to the state prison and approval of the warden, and with the approval* Transfer to juvenile facility. Transfer to Swan River Youth Forest Camp—prisoners under 25.

HeinOnline -- 1971 vol. II 1375 1971

of the department of institutions such person sentenced to the state prison who is twenty-five (25) years old or younger may be transferred to the Swan River Youth Forest Camp. Upon such transfer such *person* shall be under the supervision and control of the facility to which he is transferred.

Parole for good behavior.

If such *person's* behavior after transfer to such juvenile facility indicated he might be released on parole or his sentence commuted and he be discharged from custody, the superintendent of such facility, with the approval of the department, may make an appropriate recommendation to the state board of pardons and the governor who may, in their discretion, parole such *person* or commute his sentence.

Revocation for behavior.

If such *person's* behavior after transfer to a juvenile facility indicates he is not a proper person to reside in such facility, upon recommendation of the superintendent, and with the approval of the department, such *person* shall be returned to the state prison to serve out his unexpired term."

Effective immediately.

Section 2. This bill will be effective upon passage and approval.

Approved March 15, 1971.

CHAPTER NO. 368.

A Bill to Amend Section 10-611, R.M.C., 1947, by Providing for Temporary Committment to the Department of Institutions of a Child of the Age of Sixteen or Over for a Period Not to Exceed Thirty Days for the Purpose of Evaluation as to Such Child's Suitability for Commitment to a Youth Forest Camp; Providing for Return to the Court of Such Children Found Not Suitable for Such Placement; Providing for Commitment to a Youth Forest Camp of Such Children Found Suitable; Providing for Payment of Transportation Costs and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 10-611, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1376 1971

"10-611. **Hearing—judgment.** The court may conduct the hearing in an informal manner and may adjourn the hearing from time to time. In the hearing of any juvenile case, as distinguished from a case involving a child charged with the commission of or attempt to commit any of the criminal offenses set out in subdivision (2) (b) of section 10-602, the general public shall be excluded and only such persons admitted as have a direct interest in the case; provided, however, that whenever the hearing in the juvenile court is had on a written petition charging the commission of any felony, persons having a legitimate interest in the proceeding, including responsible representatives of public information media, shall not be excluded from such hearing. All cases involving children shall be heard separately and apart from the trial of cases against adults.

Juvenile case hearings.

Exclusion of public.

Exception—juveniles charged with felonies.

Separate hearings.

If the court shall find that the child is delinquent within the provisions of this act, it may by order duly entered proceed as follows:

Finding of delinquency.

(1) Place the child on probation or under supervision upon such terms as the court shall determine.

Probation.

(2) Commit the child to a suitable public institution or agency, except youth forest camps; or commit the child to the department of institutions or to a suitable private institution or agency incorporated under the laws of the state, approved by the state department of public welfare, and authorized to care for children; or to place them in suitable foster homes, approved by the department of public welfare, or the probation department.

Commitment.

(3) In the case of such child of the age of sixteen (16) years or older who the court feels would be a suitable person for placement at a youth forest camp, the court should notify the director of the department of institutions of such finding and the director of the department of institutions should designate to the court the juvenile facility to which the child should be delivered for evaluation. The court may then commit such child to the department of institutions for not to exceed thirty (30) days for the purpose of evaluation as to such child's suitability for such placement, and order the child delivered for evaluation to the juvenile facility designated by the director. If after such evaluation the department of institutions reports to the court that such child is suitable for placement in a

Procedure—child 16 or older—commitment to youth forest camp.

Evaluation.

HeinOnline -- 1971 vol. II 1377 1971

youth forest camp and if there is space available at such camp, the court may then commit such child directly to the youth forest camp under the terms and conditions of the commitment provided for in this act. If, however, the department of institutions reports to the court that such child is not suitable for placement in such camp, stating the reasons therefor, he shall be returned to the court for such further disposition as the court may deem advisable under the provisions of this act. The costs of transporting such child to the designated juvenile facility for evaluation and the cost of returning such child to the court, should that become necessary, shall be borne by the county of such child's residence.

Costs.

Further care and treatment.

(4) Order such further care and treatment as the court may deem best for the best interest of the child, except as herein otherwise provided.

Status of delinquent children defined.

No commitment of any such delinquent child to any institution under this act shall be deemed commitment to a penal institution. No adjudication upon the status of any delinquent child in the jurisdiction of the court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any delinquent child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of any crime in any court except as provided in the preceding section of this act. The disposition of the delinquent child or any evidence given in the court shall not be admissible as evidence against the child in any other case or proceeding.

Summary of information.

Whenever the court shall commit a delinquent child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning such child.

Separate facilities for juvenile convicts.

Whenever a child or an adult under the age of twenty-one (21) years is convicted of a felony or felonies or attempt to commit a felony or felonies and is sentenced to imprisonment in the state prison, he shall, throughout the term of imprisonment or until such time as he reaches the age of twenty-one (21) years, have sleeping quarters separate and apart from inmates who are over the age of twenty-one (21) years, and additionally shall be kept separate and apart at other times in those areas where staff and facilities will permit."

HeinOnline -- 1971 vol. II 1378 1971

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved March 15, 1971.

CHAPTER NO. 369.

An Act to Amend Section 11-1821, R.C.M., 1947, Providing that After Completing Twenty Years or More of Active Service if a Policeman or Officer Elects to Serve an Additional One to Ten Years then the Payment from the Police Reserves Fund Shall Be Increased at the Rate of One Percent Per Year of Such Additional Service Up to a Maximum of Sixty Percent of the Last Year's Average Salary Received as a Monthly Compensation for Service as an Active Member of the Police Department.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-1821, R.C.M., 1947, is amended to read as follows: Amending clause.

"11-1821. (5108.5) **Payment of police reserves.** (1) Whenever any policeman or officer shall from age or disability become transferred from the active list of the police officers of any city or town to the reserve list of such city or town, he shall thereafter be paid in monthly payments from the funds in this act provided for, a sum equal to one-half (½) the salary he was receiving during the year prior to the time he passed to the police reserve list; *provided that after completing twenty (20) years or more of active service if a policeman or officer elects to serve an additional one (1) to ten (10) years then the payment from the police reserves fund shall be increased at the rate of one percent (1%) per year of such additional service up to a maximum of sixty percent (60%) of the last year's average salary received as a monthtly compensation for services as an active member of the police department.* Rates of payment—police reserves.

(2) Upon the death of any policeman or any officer on the active list or reserve list of any city or town, his surviving dependent widow, if there be such a surviving widow, shall, as long as she remains his widow, be paid, from the police reserves' fund, a sum equal to one-half Payment on death. Surviving widow.

HeinOnline -- 1971 vol. II 1379 1971

(½) the salary such policeman or officer was receiving during the year prior to the date of his demise or prior to the date such policeman or officer passes to the police reserve list. No surviving widow shall be entitled to payments under the provisions of this act if she be fifteen (15) years younger than her husband, unless she shall have been married to and living with her husband for ten (10) years immediately preceding his death. If such policeman or officer shall leave a dependent minor child, or dependent minor children, then upon the death of such policeman or officer, providing he leaves no surviving widow, or upon the death or remarriage of his widow, or if his widow be fifteen (15) years younger than her husband and shall not have been married to and living with her husband for the ten (10) years immediately preceding his death, then his surviving dependent minor child, or dependent children, collectively, if there be more than one dependent minor child, shall be paid the same monthly payments as are herein provided to be paid to the surviving widow, until such minor child, or minor children, shall have attained the age of eighteen (18) years or shall have married; provided further that the payments herein provided for to be made to the surviving widow and/or children shall not be made if such payments will require an increase in the millage tax levy now provided for by section 11-1823.

Limitations.

Dependent minor children.

Increase in millage tax levy prohibited.

Payment to guardian.

(3) Payments as herein provided for, to be made to the minor child or children of police officers shall be paid to the duly appointed, qualified and acting guardian of such child or children, for the use of such minor, until such minor shall have reached the age of eighteen (18) years or shall have married and in case there is more than one minor child, upon each such child reaching the age of eighteen (18) years the pro rata payments to such child shall cease and shall be made to the remaining minor child or children until the youngest child shall reach the age of eighteen (18) years or shall have married.

"Policeman"—"police officer" defined.

(4) The term "policeman," or "police officer," as herein used shall include all those on the reserve list, as well as "active police," "police officer," and/or "patrolman"."

Approved March 15, 1971.

HeinOnline -- 1971 vol. II 1380 1971

CHAPTER NO. 370.

An Act to Allow the Montana Water Resources Board, Upon Its Own Motion, to Inspect and Determine Safety of Dams or Dikes; Amending Section 89-702, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 89-702, R.C.M., 1947, is amended to read as follows: Amending clause.

"89-702. **Dams and dikes to be constructed in a secure manner—proceedings upon complaint of insecurity.** No person, association, or corporation shall construct, or cause to be constructed, a dam or dike for the purpose of accumulating, storing, appropriating, or diverting any of the waters of this state, except in a thorough, secure, and substantial manner. Sonstruction—dams and dikes.

The Montana water resources board, at any time, on its own motion or upon complaint on oath being made to the state water *resources* board by three or more persons residing or having property in such location, that their homes or property would be in danger of destruction or damage in event of flood occurring on account of the breaking of any dam or dike of any reservoir within the state, and that they have reason to believe said reservoir is in an unsafe condition, or that it is being filled with water to such an extent as to render it unsafe, it shall be the duty of the state water *resources* board to forthwith examine, or cause to be examined, the said reservoir. If, upon such examination, the state water *resources* board shall find that said reservoir is unsafe, or is being filled with water to such an extent as to render it unsafe, it shall notify the county attorney of the county in which the reservoir is located, setting forth its findings, and the county attorney shall immediately take the necessary steps to abate the danger and make the structure safe. Duty of water resources board to examine unsafe use. Findings. Notice to county attorney. Abatement.

In the event of either party being dissatisfied with the findings of the state water *resources* board, it may take an appeal to the district court of the district wherein the reservoir is located, and said court shall hear and determine the matter at the earliest practical time, subject to the right of either party to take an appeal as in other civil cases; provided, that the judgment of the state water *resources* board shall control until the final determination of the case." Appeals. Judgment until final determination.

HeinOnline -- 1971 vol. II 1381 1971

Scope of jurisdiction.

Section 2. Jurisdiction of the water resources board applies to any dam or dike which does or will impound or divert water and which has or will have an impounding capacity at the water storage elevation of one hundred (100) acre feet or more.

Approved March 15, 1971.

CHAPTER NO. 371.

An Act Amending Section 11-1202, R.C.M., 1947, to Increase the Monetary Limitation on Purchases.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1202, R.C.M., 1947, is amended to read as follows:

"11-1202. **Awarding contracts—advertisements—limitations—installments—sales of supplies—construction of buildings—purchases from government agencies—exemptions.** All contracts for the purchase of any automobile, truck, or other vehicle or road machinery, or for any other machinery, apparatus, appliances, or equipment, or for any materials or supplies of any kind, or for construction for which must be paid a sum exceeding *four thousand dollars ($4,000),* must be let to the lowest responsible bidder after advertisement for bids; provided that no contract shall be let extending over a period of five (5) years or more without first submitting the question to a vote of the taxpaying electors of said city or town. Such advertisements shall be made in the official newspaper of the city or town, if there be such official newspaper, and if not it shall be made in a daily newspaper of general circulation published in the city or town, if there be such, otherwise by posting in three (3) of the most public places in the city or town. Such advertisement if by publication in a newspaper shall be made once each week for two consecutive weeks and the second publication shall be made not less than five (5) days nor more than twelve (12) days before the consideration of bids. If such advertisement is made by posting, fifteen (15) days must elapse, including the day of posting, between the time of the posting of such advertisement and the day set for considering bids. The council may postpone action as to any such contract until the next regular meeting after bids are received in response

Municipal purchases of machinery—over $4,000—bids required.

Contract limitation—election.

Publication.

Posting.

HeinOnline -- 1971 vol. II 1382 1971

to such advertisement, may reject any and all bids and re-advertise as herein provided. The provisions of this section as to advertisement for bids shall not apply upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, riot or insurrection, or any other similar emergency, but in such case the council may proceed in any manner which, in the judgment of three-fourths (¾) of the members of the council present at the meeting, duly recorded in the minutes of the proceedings of the council by aye and nay vote, will best meet the emergency and serve the public interest. Such emergency shall be declared and recorded at length in the minutes of the proceedings of the council at the time the vote thereon is taken and recorded.

Exceptions.

Emergency procedures.

When the amount to be paid under any such contract shall exceed *four thousand dollars ($4,000)* the council may provide for the payment of such an amount in installments extending over a period of not more than five (5) years; provided that when such amount is extended over a term of two (2) years at least forty per centum (40%) thereof shall be paid the first year and the remainder the second year, and when such amount is extended over a term of three (3) years, at least one-third (1/3) thereof shall be paid each year, and if such amount is extended over a term of four (4) years, at least one-fourth (1/4) is to be paid each year, and if such amount is extended over a term of five (5) years, at least one-fifth (1/5) is to be paid each year; provided that at the time of entering into such contract, there shall be an unexpended balance of appropriation in the budget for the then current fiscal year available and sufficient to meet and take care of such portion of the contract price as is payable during the then current fiscal year, and the budget for each following year, in which any portion of such purchase price is to be paid, shall contain an appropriation for the purpose of paying the same.

Contracts over $4,000—installments.

Limitation.

Old supplies or equipment may be sold by the city or town to the highest responsible bidder, after calling for bid purchasers as herein set forth for bid sellers, and such city or town may trade in supplies or old equipment on new supplies or equipment at such bid price as will result in the lowest net price.

Sale or trade—used equipment.

Also a city or town may, without bid, when there are sufficient funds in the budget for supplies or equipment,

Purchases—savings.

HeinOnline -- 1971 vol. II 1383 1971

purchase such supplies or equipment from government agencies available to cities or towns when the same can be purchased by such city or town at a substantial saving to such city or town."

Approved March 15, 1971

CHAPTER NO. 372

An Act to Require That the Superintendent of Public Instruction Shall Coordinate Educational Television in the State, and Providing for the Appointment of an Advisory Committee.

Be it enacted by the Legislative Assembly of the State of Montana:

Duties of superintendent of public instruction—educational television.

Section 1. The superintendent of public instruction shall be the coordinator of educational television and shall:

(1) Contact all public educational institutions including universities, colleges, elementary and secondary schools, vocational schools, and community colleges and assess their educational television needs and facilities.

(2) Coordinate programs to service the institutions named in subsection (1).

(3) Purchase, lease, rent and produce educational programs using national, regional, state and local materials as may be available in order to develop a comprehensive educational television curriculum.

(4) Turn over all developed programs to the administrator of the division of communications for its technical transmission.

Five member advisory committee —appointment.

Section 2. The superintendent of public instruction shall appoint an advisory committee consisting of five (5) citizens of the state and the coordinator of educational television. Of the five (5) citizens appointed one (1) shall be a representative of the university system, one (1) a representative of the public schools, one (1) a representative of vocational-technical schools, one (1) from the television industry, and one (1) a representative from the general public. This advisory committee shall meet on the call of the superintendent of public instruction. It

Meetings.

HeinOnline -- 1971 vol. II 1384 1971

shall have the power to call to the attention of the state superintendent of public instruction any matter relating to educational television which in its judgment should be considered by the superintendent of public instruction. Duties.

Approved March 15, 1971

CHAPTER NO. 373

An Act to Assure Eligibility for Aid to Dependent Children Assistance for the Care of Children Whose Father is Unemployed but Seeking Employment, and, to Provide for the County Share of Participation in Grants for Such Persons, and Amending Section 71-508, R.C.M., 1947, and Providing for the Effective Dates of the Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 71-501, R.C.M., 1947, is amended to read as follows: Amending clause.

"71-501. **"Dependent child" defined.** The term "dependent child" means a child (A) under the age of eighteen (18), or (B) under the age of twenty-one (21) who is a student under the regulations prescribed by the state welfare department and such children (A and B above) who have been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, nephew, niece, or first cousin, in a place of residence maintained by one or more of such relatives as his or their own home. "Dependent child" defined.

Aid to dependent children shall not be denied to or for the care of children who would otherwise be entitled to such aid under the laws of the state of Montana by the fact that such child is living in the home of his or her father, who is in the opinion of the county board of public welfare of the appropriate county *either* unemployable *or who is honestly and responsibly seeking proper employment and is unable to find such employment* nor by the fact that such child is living in the home of a head of a household who is, at the time, receiving job training under the laws of the state of Montana; nor shall the benefits which Aid to dependent children not denied. Unemployed father. Job training.

HeinOnline -- 1971 vol. II 1385 1971

would otherwise accrue to such child for aid to dependent children under the laws of the state of Montana be reduced by reason of *any* such cause.

Primary factor—willingness to work.

Primary factors in determining whether or not a father is honestly and responsibly seeking employment shall include his willingness to register for employment with the Montana state employment service if the Montana state employment service has a representative in his county of residence and his willingness to accept employment in which he is able to engage which will increase his ability to maintain himself and his family.

Other criteria.

The department of public welfare may establish additional criteria for determining whether or not a father is honestly and responsibly seeking employment.''

Amending clause.

Section 2. Section 71-508, R.C.M., 1947, as amended, is hereby amended to read as follows:

Reimbursement by counties.

"71-508. **County Share of Participation.** Each county department shall reimburse the state department in the amount of one-third (1/3) of the approved aid to dependent children grants exclusive of the federal share, *provided, however, whenever the state appropriation to fund the state's share of the grants, to families with unemployed fathers who are honestly and responsibly seeking employment, is insufficient to fully fund the state's share of such grants and such funding, if any, has been depleted, then the county, if any, which would be responsible for extending aid to dependent children to such families, shall reimburse the state department in the full amount granted to such family, exclusive of the federal share and exclusive of any costs to the state for participation by any such family in any and all federal or state work incentive programs and retraining programs and exclusive of any costs to the state for any such payments made to persons for whom the state is responsible. The state department, on receiving any appropriation for funding the unemployed father families payments, shall allocate such funds for such program so that it may be determined when, if at all, such funds as are appropriated for such program are depleted.''*

Allocation of funds.

Effective years—over $400,000 in federal funds.

Section 3. The provisions of this act shall be effective only in those years in which the state of Montana shall

HeinOnline -- 1971 vol. II 1386 1971

receive in excess of four hundred thousand dollars ($400,000) federal funds designated for the specific purpose of funding this act.

Section 4. This act shall be effective July 1, 1972. Effective July 1, 1972.

Approved March 15, 1971

CHAPTER NO. 374

An Act to Require Thirty Day Notice of Cancellation or Nonrenewal of Fire Insurance Policies and Providing a Penalty for Violation Under Section 40-2617, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. No insurer shall cancel or refuse to renew any policy providing fire coverage on any home occupied by the insured as a domicile without first giving to the insured thirty (30) days' notice in writing. Fire insurer must give 30 day notice of cancellation.

Section 2. Violation of this section is punishable under section 40-2617, R.C.M., 1947 (general penalty). Penalty for violation.

Approved March 15, 1971

CHAPTER NO. 375

An Act Relating the Cities' and Towns' All-Purpose Levy; Amending Sections 84-4701.1, 84-4701.2, 84-4701.3, 84-4701.5 and 84-4701.6, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-4701.1, R.C.M., 1947, is amended to read as follows: Amending clause.

"84-4701.1. **All-purpose levy authorized.** It is the purpose of this act to authorize and empower the cities and towns of the state of Montana, at their option, to make an all-purpose annual mill levy in lieu of the multiple levies now authorized by the statutes of the state of Montana. The all-purpose mill levy shall not include the *levies* imposed *for* bonded indebtedness, to pay judgments, *or special improvement district revolving funds of* munic- Authority of cities and towns—all-purpose annual mill levy. Exclusions.

HeinOnline -- 1971 vol. II 1387 1971

ipalities, which levies may be made in addition to the all-purpose levy as provided in section 84-4701.6, R.C.M., 1947. This act shall not be construed as repealing those statutes providing for multiple separate levies."

Amending clause.

Section 2. Section 84-4701.2, R.C.M., 1947, is amended to read as follows:

Maximum rate—all-purpose levy.

"84-4701.2. **Maximum rate of all-purpose levy.** Notwithstanding the provisions of the statutes of Montana to the contrary, the cities and towns of the state of Montana may make an all-purpose annual levy upon the assessed value of all the taxable property in such cities and towns, for municipal purposes in lieu of the multiple levies now authorized by statute. The total of such *all-purpose* levy shall not exceed *sixty-five (65)* mills on the dollar, which levy shall not include any *levies* necessary *for* bonded indebtedness, judgments, *or special improvement district revolving* in addition to all-purpose levy as provided in sections 84-4701.1 and 84-4701.6. *The monies received from such all-purpose levy shall be accounted for in a common fund known as the all-purpose general fund.*

65 mills on the dollar—exclusions.

Deposit in all-purpose general fund.

Capital improvement program fund not to exceed 5%.

An amount not to exceed five per centum (5%) of the monies received from and as a part of the all-purpose levy aforesaid may be placed in a separate fund known as the capital improvement program fund to be earmarked for the replacement and acquisition of property, plant or equipment costing in excess of five thousand dollars ($5,000) with a life expectancy of five (5) years or more; provided that a capital improvement program has been formally adopted by city or town ordinance.

Investments.

The monies held in the capital improvement program fund shall, whenever possible, be invested in savings or time deposits in a state or notional bank insured by the federal deposit insurance corporation or in direct obligations of the U.S. government and credited back to the fund plus interest earned."

Amending clause.

Section 3. Section 84-4701.3, R.C.M., 1947, is amended to read as follows:

Appropriation of all-purpose levy.

"84-4701.3. **Allocation of all-purpose levy.** In the event the all-purpose levy method, provided for in section 84-4701.2, is followed in municipal financing, any municipality following it shall *appropriate* the levy to the several departments of the municipality in its annual

HeinOnline -- 1971 vol. II 1388 1971

budget and appropriation ordinance, or in other legal manner, as the governing body of such municipality shall deem best."

Section 4. Section 84-4701.5, R.C.M., 1947, is amended to read as follows: Amending clause.

"84-4701.5. **Certification of all-purpose levy to county officers.** In the event that it is necessary to certify such a municipal levy to county officers for collection, the same shall be certified as *an all-purpose levy.*" Certification.

Section 5. Section 84-4701.6, R.C.M., 1947, is amended to read as follows: Amending clause.

"84-4701.6. **Extraordinary levies — additional to all-purpose levy.** That otherwise authorized extraordinary levies to pay *for* bonded indebtedness, judgments, *or special improvement district revolving funds* may be made by such municipalities in addition to such all-purpose levy provided in sections 84-4701.1, 84-4701.2, 84-4701.3, 84-4701.4 and 84-4701.5 of the Revised Codes of Montana, 1947." Extraordinary levies in addition to all-purpose levy.

Approved March 15, 1971

CHAPTER NO. 376

An Act to Amend Section 4-108, R.C.M., 1947, Providing Salaries of State Liquor Employees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-108, R.C.M., 1947, is amended to read as follows: Amending clause.

"4-108. **(2815.63) Salaries of state liquor administrator and other employees — duties of assistant administrator.** The board shall fix the salaries of its employees at such sums as it deems advisable, *to wit. The salary of the state liquor administrator in a sum not exceeding twelve thousand five hundred dollars ($12,500) per year; the salary of the assistant state liquor administrator in a sum not exceeding ten thousand five hundred dollars ($10,500) per annum; the salary of the supervisor of the accounting department not exceeding nine thousand four hundred fifty dollars ($9,450) per annum; the salaries of the super-* Salaries of state liquor board employees—maximums.

HeinOnline -- 1971 vol. II 1389 1971

visors of the data processing department and the license department in a sum not exceeding eight thousand two hundred fifty dollars ($8,250) per annum each, the salary of the supervisor of the warehouse department in a sum not exceeding seven thousand seven hundred dollars ($7,700) per annum; the salaries of the purchasing agent, the traffic manager, the assistant supervisor of the data processing department, the assistant supervisor of the accounting department, store auditors and field inspectors in a sum not exceeding seven thousand two hundred sixty dollars ($7,260) per annum each, the salary of a vendor of a "Class A" store in a sum not exceeding seven thousand two hundred sixty dollars ($7,260) per annum; the salary of one (1) assistant vendor of a "Class A" store in a sum not exceeding six thousand six hundred dollars ($6,600) per annum; the salary of any other employee of a "Class A" store in a sum not exceeding six thousand two hundred dollars ($6,200) per annum; the salary of a vendor of a "Class B" store in a sum not exceeding six thousand three hundred fifty dollars ($6,350) per annum; the salary of an assistant vendor and any other employee of a "Class B" store in a sum not exceeding five thousand two hundred fifteen dollars ($5,215) per annum; the salary or compensation of a vendor of a "Class C" store in a sum not exceeding five thousand six hundred thirty five dollars ($5,635) per annum; the salary of an assistant vendor and any other employee of a "Class C" store in a sum not exceeding four thousand six hundred dollars ($4,600) per annum; the salary of any other employee of the board in the sum not exceeding seven thousand two hundred sixty dollars ($7,260) per year. The volume of the individual store sales shall be taken into consideration in fixing the salary of store vendors, assistant vendors and employees. The assistant state liquor administrator shall exercise such powers and perform such duties as the board may prescribe."

Consideration of volume.

Duties of assistant state liquor administrator.

Approved March 15, 1971

CHAPTER NO. 377

An Act to Amend Section 91-512, R.C.M., 1947, to Delete the Salary Limitation for the Special Assistant Attorney General Assigned the Function of Working With Escheated Estates.

HeinOnline -- 1971 vol. II 1390 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 91-512, R.C.M., 1947, is amended to read as follows: Amending clause.

"91-512. **Duty of attorney general — employment of special assistant.** The attorney general of the state of Montana shall be the legal advisor in connection with all escheated property matters and it shall be the duty of the attorney general to make investigations and conduct inquiries to determine whether there is property in the state of Montana which should escheat to the state of Montana, and to take all steps necessary to secure such escheat, and for this purpose the attorney general is authorized and empowered to employ a special assistant *and incur* necessary expenses *subject to appropriation limitations.*" Duties of attorney general—escheated property. Special assistant authorized.

Approved March 15, 1971

CHAPTER NO. 378

An Act to Remove the Residence Requirement for Persons Applying for Aid to the Needy Blind; Amending Section 71-604, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 71-604, R.C.M. 1947, is amended to read as follows: Amending clause.

"71-604. **Eligibility for aid to needy blind.** Aid shall be granted under this chapter to any person who: Aid to needy blind.

(a) Has no vision or whose vision with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who has been examined and so certified by a fully licensed ophthalmologist or by a fully licensed optometrist; Defective vision.

(b) Has income which is inadequate to provide a reasonable subsistence compatible with decency and health except that in determining need, the department may disregard earned income, as is provided in the Federal Social Security Act; Inadequate income.

HeinOnline -- 1971 vol. II 1391 1971

Not recipient of other assistance.

(c) Is not receiving old age assistance, aid to dependent children or aid to the permanently and totally disabled, for himself or herself;

Filing application—county of residence.

(d) Any person otherwise qualified who has *no legal county residence shall file his application in the county in which he is residing, and his assistance shall be paid entirely from state funds until he can qualify as having a legal residence in said county. If a recipient moves from one county to another county, he shall retain residence in the original county until he has resided in the second county for a period of one (1) year at which time he will gain residence in the second county;*

Not a state inmate.

(e) Is not an inmate of any public institution except as a patient in a public medical institution; is not a patient in an institution for tuberculosis or mental diseases or is not a patient in a medical institution as a result of having been diagnosed as having tuberculosis or psychosis."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved March 15, 1971

CHAPTER NO. 379

An Act to Remove the Residence Requirement for Persons Applying For Aid to Disabled; Amending Section 71-1202, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-1202, R.C.M. 1947, is amended to read as follows:

Aid to disabled.

"71-1202. **Eligibility requirements for aid to the permanently and totally disabled.** Aid to the permanently and totally disabled shall be granted any person who:

Age 18.

(a) Has attained the age of eighteen (18) years;

Inadequate income.

(b) Has income which is inadequate to provide a reasonable subsistence compatible with decency and health;

HeinOnline -- 1971 vol. II 1392 1971

(c) *Any person otherwise qualified who has no legal county residence shall file his application in the county in which he is residing, and his assistance shall be paid entirely from state funds until he can qualify as having a legal residence in said county. If a recipient moves from one county to another county, he shall retain residence in the original county until he has resided in the second county for a period of one year at which time he will gain residence in the second county;*

Filing application—county of residence.

(d) Is permanently and totally disabled as defined by the rules and regulations of the state department of public welfare;

Disabled.

(e) Is not an inmate of a public institution, except as a patient in a public medical institution; is not a patient in an institution for tuberculosis or mental diseases, or is not a patient in a medical institution as a result of having been diagnosed as having tuberculosis or psychosis;

Not a state inmate.

(f) Is not receiving old age assistance, aid to dependent children or aid to needy blind for himself or herself.''

Not recipient of other assistance.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act is effective on its passage and approval.

Effective immediately.

Approved March 15, 1971

CHAPTER NO. 380

An Act to Authorize the Creation of Funds to Promote, Establish and Maintain Recreational and Other Activities of the Elderly, and Providing for a Special Levy.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The governing body of a city, county, town or municipality may in its discretion establish a fund to promote, establish and maintain recreational, educational and other activities of the elderly by a levy of up to one mill on each dollar of taxable property, which tax levy shall be in addition to all other tax levies. The governing body shall have the power, by resolution, to make expenditures from the fund as it may from time to time deter-

Authority of governing body—fund for elderly.

Levy.

Expenditures.

HeinOnline -- 1971 vol. II 1393 1971

Limitations.

mine, provided, however, that expenditures shall be made for the promotion and development of recreational, educational and other activities of the elderly, including motivation of the use of the talents of the elderly. The governing body may make payment of expenditures to nonprofit corporations or associations engaged in aiding the activities.

Approved March 15, 1971

CHAPTER NO. 381

An Act to Amend Section 53-420, R.C.M. 1947, Increasing the Fee Requirement of Operating Record from One Dollar ($1) to Two Dollars ($2).

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 53-420, R.C.M. 1947, is amended to read as follows:

Supervisor shall furnish certified operating record.

"53-420. **Supervisor to furnish operating record.** The supervisor shall upon request furnish any person a certified abstract of the operating record of any person subject to the provisions of this act, which abstract shall also fully designate the motor vehicles, if any registered in the name of such person, and, if there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the supervisor shall so certify. A fee of *two dollars ($2)* shall be paid for said certified abstract."

Fee $2.

Approved March 15, 1971

CHAPTER NO. 382

An Act to Amend Section 11-1024, R.C.M. 1947, Relating to Group Hospitalization, Medical, Health, Accident and/or Group Life Insurance Contracts or Plans for the Benefit of Public Employees and Their Dependents By Increasing the Employer Contribution Thereto; By Including Long-Term Disability Insurance and Defining How Monies May Be Paid for Premiums from State Appropriations.

HeinOnline -- 1971 vol. II 1394 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-1024, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-1024. **Group insurance for all departments, bureaus, boards, commissions and agencies of the state of Montana, county, city, and town officers and employees — authority — approval of employees — limit on contributions.** All departments, bureaus, boards, commissions and agencies of the state of Montana, and all counties, cities and towns shall upon approval by two-thirds (2/3) vote of the officers and employees of each such department, bureau, board, commission, agency, county, city and town, to enter into group hospitalization, medical, health *including long-term disability,* accident and/or group life insurance contracts or plans for the benefit of their officers, employees and their dependents, and the respective administrative and governing bodies pay as part of the officers and employees salary *ten dollars ($10)* per month for each officer and employee, *and provided for employees of educational institutions whose employment contracts show at a minimum a full-time academic year of employment such payment for insurance may be an amount equal to twelve (12) times the monthly rate, but may not exceed one hundred twenty dollars ($120) per year.*"

Group insurance for public agencies.

Two-thirds vote of employees.

Employer contribution—salary of employee—$10 per month.

$120 per year.

Approved March 15, 1971

CHAPTER NO. 383

An Act to Amend Section 8-127, R.C.M. 1947, to Provide for a Tax on Gross Operating Revenue of Motor Carriers of Five Hundred Seventy-Five Thousandths (.575) of One Percent, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 8-127, R.C.M. 1947, as amended by section 1, chapter 6, extraordinary session, laws of 1969, is amended to read as follows: Amending clause.

"8-127. **Additional fees covering motor carriers.** In addition to all other licenses, fees and taxes imposed upon motor vehicles in this state and in consideration of the use of the highways of this state, every motor carrier

Motor carriers must file quarterly statement—gross operating revenue—fee .575 of 1%.

HeinOnline -- 1971 vol. II 1395 1971

holding a certificate of public convenience and necessity or permit issued by the board of railroad commissioners, shall between the first and fifteenth days of January, April, July and October of each year, file with the board of railroad commissioners a statement showing the gross operating revenue of such carrier for the preceding three (3) months of operation, or portion thereof, and shall pay to the board a fee of *five hundred seventy-five thousandths (.575)* of one (1) percent of the amount of such gross operating revenue; and such tax shall be effective for the taxable year commencing April 1, 1969, and also for each taxable year thereafter; and in the event that such carrier operates in interstate commerce, the gross operating revenue of such carrier within this state shall be deemed to be all the revenue received from business beginning and ending within this state, and a proportion based upon the proportion of the mileage within this state to the entire mileage over which the business is done of revenue on all business passing through, into or out of this state; provided, however, that the minimum fee which shall be paid by each class A and class B carrier for each vehicle registered and/or operated under the provisions of the Motor Carrier Act shall be thirty dollars ($30) and the minimum annual fee which shall be paid by each class C carrier for each vehicle registered and/or operated under the Motor Carrier Act shall be fifteen dollars ($15); provided, however, that the minimum annual fee provided by this section shall not apply to either new or used vehicles operated under their own power where such vehicle is being delivered to a dealer and will only be transported once."

Taxable years beginning April 1, 1969.

Determination interstate carriers.

Minimum fees—Class A and B—$30.

Class C—$15.

Exemption.

Effective April 1, 1971.

Section 2. This act is effective on April 1, 1971

Approved March 15, 1971

CHAPTER NO. 384

An Act to Amend Section 84-1840, R.C.M. 1947, Providing That Not More Than Ten Percent (10%) or One Thousand Dollars ($1,000) of Funds Allocated Each Fiscal Year to Any County, Incorporated City or Town Shall Be Expended for Maintenance and Repair of Roads or Streets, and Providing Not More Than Seven Thousand Five Hundred Dollars ($7,500) of Allocated Funds

HeinOnline -- 1971 vol. II 1396 1971

May Be Expended Each Fiscal Year to Any County, Incorporated City or Town Without Being Submitted to Bids; and Amending Paragraph (8) of Said Section Relating to the Reduction of Allocated Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1840, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1840. **Disposition of funds.** All taxes, interest and penalties collected under this act shall be turned over promptly to the state treasurer and the state treasurer shall place the same in the earmarked revenue fund to the credit of the state highway department. Deposit of funds.

(1) The lesser of the following amounts from funds collected under this act shall be allocated each fiscal year to the counties and incorporated cities and towns in Montana for construction, reconstruction, maintenance and repair of rural roads, and city or town streets and alleys, as provided in subsections [(1)] (a) and (b) hereof, Allocation to counties, cities and towns. Rural roads, streets and alleys.

(i) Three million dollars ($3,000,000) or

(ii) Sixty-six percent (66%) of the amount of state matching funds saved under the provisions of clause B of section 120 (a) of Title 23, United States Code, but not less than one million five hundred thousand dollars ($1,500,000).

In any fiscal year when the amount of funds allocated to the counties and incorporated cities and towns under subsection (1) (ii) does not equal three million dollars ($3,000,000) the difference between the three million dollars ($3,000,000) and the funds allocated for that year shall carry forward and be allocated to the counties and incorporated cities and towns in subsequent fiscal years.

(a) Forty percent (40%) shall be divided among the various counties in the following manner: 40% division among counties.

(i) Forty per centum (40%) in the ratio that the rural road mileage in each county exclusive of the federal-aid interstate system and the federal-aid primary system bears to the total rural road mileage in the state exclusive of the federal-aid interstate system and the federal-aid primary system.

HeinOnline -- 1971 vol. II 1397 1971

(ii) Forty per centum (40%) in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns.

(iii) Twenty per centum (20%) in the ratio that the land area of each county bears to the total land area of the state.

60% division among cities and towns.

(b) Sixty percent (60%) shall be divided among the incorporated cities and towns in the following manner:

(i) Fifty percent (50%) of the sum shall be divided in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana.

(ii) Fifty percent (50%) shall be divided in the ratio that the city or town street and alley mileage, exclusive of the federal-aid interstate system and the federal-aid primary system, within corporate limits bears to the total street and alley mileage, exclusive of the federal-aid interstate system and federal-aid primary system, within the corporate limits of all cities and towns in Montana.

Limitations on use.

(2) All funds hereby allocated to counties, cities and towns shall be used exclusively for the construction, reconstruction, maintenance and repair of rural roads, city or town streets and alleys, or for the share which such city, town or county might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets which are part of the federal-aid primary or secondary highway system, or urban extensions thereto, *provided that not more than ten percent (10%) or one thousand dollars ($1,000), whichever amount is greater, of the funds allocated each fiscal year, beginning with the fiscal year starting July 1, 1971, to any county, incorporated city and town may be expended for maintenance and repair of rural roads or city or town streets.*

County proposals to state highway commission.

(3) Upon receipt of the allocation provided herein, the county commissioners, in the case of counties, or the governing body, in the case of incorporated cities or towns, shall propose the expenditure of said funds to the state highway commission. The commission may consult with the county commissioners or the governing body pro-

HeinOnline -- 1971 vol. II 1398 1971

posing expenditures before approving the same provided, however, that before any contract for the expenditure of funds provided herein shall be let, an agreement covering the same shall be executed by both the proposing body and the state highway commission.

Approval.
Agreement.

(4) All construction, reconstruction, maintenance and repair authorized herein shall be pursuant to the design and subject to the supervision of the state highway commission, and all funds hereby allocated to counties, cities and towns shall be disbursed by the state highway commission to the lowest responsible bidder according to the bidding procedures specified in chapter 41, Title 32 of this code *except that not more than seven thousand five hundred dollars ($7,500) of the funds allocated each fiscal year to any county, incorporated city and town may be expended without being submitted to bids.*

Supervision.
Disbursements.
Bid procedures.

(5) The state highway commission shall make and establish such rules and regulations as may be necessary to carry out the intent of this act and shall keep records of the funds allocated to each city or town, and the subsequent expenditure of said funds.

Rules and regulations.

(6) For the purposes of this act where distribution of funds is made on a basis related to population, the population shall be determined by the last preceding official federal census.

Population determination.

(7) For the purposes of this act where determination of mileage is necessary for distribution of funds it shall be the responsibility of the cities, towns and counties to furnish to the state highway commission a yearly certified statement indicating the total mileage within their respective areas applicable to this act. All mileage submitted shall be subject to review and approval by the state highway commission.

Annual statement of mileage.

(8) None of the funds authorized by this section shall be used for the purchase of capital equipment."

Limitation on use of funds.

Section 2. The provisions of this act shall be severable and if any of its sections, provisions, exceptions, sentences, clauses, phrases, or parts be held unconstitutional or void, the remainder of this act shall continue in full force and effect.

Severability clause.

Section 3. All acts or parts of acts in conflict with this enactment are hereby repealed.

Repealing clause.

Approved March 15, 1971

HeinOnline -- 1971 vol. II 1399 1971

CHAPTER NO. 385

An Act to Amend Section 23-3016, R.C.M. 1947, Providing for the Close of Registration of Voters By Changing the Close of Registration Dates; and Redefining the Period of Notice; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 23-3016, R.C.M. 1947, is amended to read as follows:

Duties of registrar. "23-3016. **Close of registration — procedure.** (1)The registrar shall:

Closing registrations. *(a) Close registrations as follows: (i) for thirty (30) days before any federal election; (ii) at noon the day before election for voters entitled under the provisions of section 23-3724, R.C.M., 1947, to register to that time; (iii) for forty (40) days before any election other than hereinabove provided.*

Certificate of registered voters. (b) Immediately after closing registration send the secretary of state a certificate showing the number of voters registered in each precinct in a county;

Publication and posting—notice of closing. *Sixty (60) days before the election,* publish notice in a newspaper of general circulation in the county specifying the day registrations will close and post the notice in each precinct. The published notice shall continue for a period of twenty (20) days.

Registration. (2) The notice shall state that electors may register for the ensuing election by appearing before the registrar or before any deputy registrar as provided by law."

Effective immediately. Section 2. This act is effective on passage and approval.

Approved March 15, 1971

* Section number corrected by authority of Attorney General.

CHAPTER NO. 386

An Act Amending Section 11-4101, R.C.M. 1947, Pertaining to Industrial Development Projects; Including Among Such Projects Commercial Enterprises.

HeinOnline -- 1971 vol. II 1400 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-4101, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-4101. **Definition of terms.** As used in this act, unless the context otherwise requires: (1) Municipality shall mean any incorporated city or town in the state; Definitions. Municipality.

(2) Project shall mean any land, any building or other improvement, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use for *commercial,* manufacturing or industrial enterprises, recreation or tourist facilities, and hospitals, long-term care facilities or medical facilities; Project.

(3) Governing body shall mean the board or body in which the general legislative powers of the municipality or county are vested; and Governing body.

(4) Mortgage shall mean a mortgage or a mortgage and deed of trust, or other security device." Mortgage.

Approved March 15, 1971

CHAPTER NO. 387

An Act to Establish Minimum Uniform Standards and Regulations for Ambulance Services as Required by Public Interest.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Findings and purposes.** The public welfare requires the establishment of minimum uniform standards for the operation of ambulance services as defined in section 2 of this act, and the control, inspection, and regulation of persons engaged therein, in order to prevent or eliminate improper care that may endanger the health of the public. The regulation of establishments providing such service is in the interest of social well-being, and the health and safety of the state and all its people. Minimum standards —ambulance services.

Section 2. **Definitions.** As used in this act, unless the context clearly indicates otherwise: (1) "Ambulance" means any privately or publicly owned motor vehicle Definitions. "Ambulance."

HeinOnline -- 1971 vol. II 1401 1971

that is especially designed or constructed, and equipped, which is maintained and used for the transportation of patients including dual purpose police patrol cars and funeral coaches or hearses which otherwise comply with the provisions of this act, but does not include any such motor vehicle owned by, or operated under the direct control of the United States or the state of Montana.

"Ambulance service." (2) "Ambulance service" means any person who operates an ambulance.

"Attendant." (3) "Attendant" means a trained or otherwise qualified individual responsible for the operation of an ambulance and the care of the patients whether or not the attendant also serves as driver.

"Attendant-driver." (4) "Attendant-driver" means a person who is qualified as an attendant and a driver.

"Driver." (5) "Driver" means an individual who drives an ambulance.

"Dual purpose police patrol car." (6) "Dual purpose police patrol car" means a vehicle, operated by a police department, which is equipped as an ambulance, even though it is also used for patrol or other police purposes.

"Executive officer." (7) "Executive officer" means the executive officer of the Montana state department of health or his designated official.

"Board." (8) "Board" means the board of health of the state of Montana.

"License officer." (9) "License officer" means the executive officer of the Montana state department of health or his designated official.

"Patient." (10) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

"Person." (11) "Person" means any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States or the state of Montana.

License required. Section 3. **License required.** (1) Every person conducting or operating an ambulance service shall procure a license issued by the department. A separate license shall be required for each establishment.

HeinOnline -- 1971 vol. II 1402 1971

(2) Applications for a license shall be made in writing to the department on forms specified by the department. Application. Forms.

(3) Licenses shall be granted as a matter of right, unless conditions exist as specified by this act which are grounds for a cancellation or denial of a license. The applicant may apply for a hearing and judicial review as specified by this act upon being denied a license or upon cancellation. Issuance.

Section 4. **Fee — term of license.** (1) There shall be paid to the department with each application for a license or for renewal of a license, an annual license fee of five dollars ($5). The department shall deposit fees with the state treasurer to the credit of the state general fund. Annual fee $5. Deposit.

(2) Each license shall expire on December 31 following its date of issue, unless cancelled for cause. Renewal may be obtained by paying the required annual license fee. The license shall not be transferable nor be applicable to any premises other than that for which originally issued. Renewal.

Section 5. **Cancellation or denial of licenses — procedure.** (1) The executive officer may cancel any license if he finds that the licensee has violated provisions or regulations of this act, and the licensee has failed or refused to remedy or correct the violation. Submission to the department of an acceptable plan of correction within ten (10) days after receipt from the executive officer of written notice of violation, and execution of an acceptable plan within the time prescribed in the written notice of approval thereof by the executive officer, shall be a bar to prosecution for violation. Cancellation for violations. Plan of correction. Approval—bar to prosecution.

(2) The executive officer shall not deny or cancel any license without:

(a) Delivery to the applicant or licensee of a written statement of the grounds therefor or the charge involved. Statement of charges.

(b) An opportunity to answer at a hearing before the board to show cause, if any, why the license should not be denied or cancelled. In such case, the licensee shall make written request to the executive officer of the department for a hearing within ten (10) days after no- Answer to show cause. Hearing.

HeinOnline -- 1971 vol. II 1403 1971

tice of the grounds or charges has been received. If the board finds that the violations of provisions or regulations of this act do not constitute a danger to the public health and would produce a hardship without equal or greater benefit to the public, the board may grant an exception to the licensee for a period not to exceed one (1) year, during which time a license would not be denied the licensee nor would his license be cancelled. Subsequent exceptions may be granted the licensee, each for a period not to exceed one (1) year, and each after a hearing before the board.

Findings.

Board may grant exceptions.

Return of certificate.

(3) Upon cancellation of a license, the license certificate shall be returned to the executive officer for destruction or deletion as the executive officer may direct in his notice of cancellation.

Writ of review—district court.

(4) Any order made by the executive officer after hearing, as provided herein, denying or cancelling any license may be reviewed by application for writ of review (certiorari) commenced in the district court of the county in which the licensed premises are located, within ten (10) days from the date of notice in writing of the executive officer's order of denial or cancelling such license has been served upon him.

County attorney shall prosecute.

(5) Whenever the department shall furnish evidence to the county attorney of any county in this state, the county attorney shall prosecute any person, persons, firm, or corporation violating any provisions of this act, or any rules or regulations effective under this act.

Section 6. **Rules and regulations — cooperative agreements.** (1) The board shall prescribe and enforce rules and regulations which are necessary to carry out the provisions of this act. These rules and regulations shall relate to ambulance equipment, training, operations (records), personnel, cleanliness, and insurance.

Rules and regulations.

Public hearing.

Notice.

(2) No rules or regulations shall be effective until a public hearing has been held for review of the rules and regulations. Notice of the public hearing shall be sent by ordinary mail at least thirty (30) days before the hearing to all Montana licensed operators along with a copy of the proposed regulations.

Cooperative agreements.

(3) The department may enter into cooperative agreements with any of the state agencies or political subdi-

HeinOnline -- 1971 vol. II 1404 1971

visions for the purpose of carrying out the provisions of this act, or any part thereof.

(4) Pursuant to the provisions of this act, required equipment in an ambulance which is maintained and regularly used for the transportation of patients shall consist of the minimal equipment for ambulances as adopted by the American college of surgeons, March, 1967, and required training shall be set at a level of advanced American red cross first aid or its equivalent. Nothing in this section shall preclude the use of any vehicle for the transportation of the injured in instances of emergency, need, or disaster situations, and the board shall not prescribe and enforce any rules and regulations related to ambulance equipment and training which exceed these requirements.

Required minimal equipment.

Required training.

Emergencies.

Section 7. **Inspections.** (1) The department shall make all necessary investigations and inspections for enforcement of this act. Each authorized representative shall make regular inspections as the rules and regulations of the board may direct, and such special inspections as the department may from time to time direct, and he shall make such reports relative to conditions existing at such times and in such manner as the board may direct.

Inspections.

(2) All persons authorized by this act or by regulations adopted under this act shall have free access at all reasonable hours to any of the establishments listed and defined in section 2 of this act for the purpose of making inspections.

Right of access.

Section 8. **Authority of board to issue subpoenas.** In any proceeding under this act, the board may administer oaths and issue subpoenas, summon witnesses, and take testimony of any person within the state of Montana.

Subpoenas.

Section 9. **Penalty.** Any person violating any provision of this act or regulation made hereunder shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for the first offense, and not less than seventy-five dollars ($75) nor more than two hundred dollars ($200) for the second offense; and for third and subsequent offenses, by a fine of not less than two hundred dollars ($200) nor more than five

Penalties for violations.

HeinOnline -- 1971 vol. II 1405 1971

hundred dollars ($500) or imprisonment in the county jail not to exceed ninety (90) days.

License fee supersedes.

Section 10. **License fee — supercedes other fees.** Payment of the license fee stipulated in this act shall be accepted in lieu of any and all existing state fees and charges for like purposes or intent which may be existent prior to the adoption of this act.

Severability clause.

Section 11. **Severability.** It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Effective immediately.

Section 12. **Effective date.** This act is effective January 1, 1972.

Approved March 15, 1971

CHAPTER NO. 388.

An Act to Amend Section 82-1002, Revised Codes of Montana, 1947, Relating to the Duties of the State Examiner and His Assistants.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1, Section 82-1002, R.C.M., 1947, is amended to read as follows:

Duties of state examiner.

"82-1002. **Duties of state examiner.** The duties of the state examiner and his assistants are:

Annual examinations.

1. To examine at least once in each year the books and accounts of the state treasurer, clerk of the supreme court, county treasurers, county clerks, district court clerks, county auditors, sheriffs, public administrators, boards of county commissioners of each county, and all other county and municipal officers *and* boards.

Methods of accounting.

2. To prescribe the general methods and details of accounting for the receipt and disbursement of all moneys belonging to the counties, cities, towns, or school districts, and to establish in all such offices such general methods

HeinOnline -- 1971 vol. II 1406 1971

and details of accounting as are required by law or are prescribed by the state examiner, and all county, city, town or school district officers are hereby compelled to conform therewith.

Report to governor and attorney general.

3. The state examiner, after examination of the affairs of *the state treasurer and clerk of the supreme court,* must make report to the governor and to the attorney general of the result of such examination, within sixty days thereafter; and if any violation of law or nonperformance of duty is found on the part of any such officer, they must be proceeded against by the attorney general as provided by law.

Attorney general shall prosecute.

Report to county city or town.

4. The state examiner, or his assistants, after the examination of the affairs of any county, *city or town* officers, must make report of such examination to the board of county commissioners, *the city or town councils* and to the county, *city or town* attorney of such county, *city or town* within *sixty (60)* days after such examination; and if any violation of law or nonperformance of duty is found on the part of any officer or board, such officer or board must be proceeded against by the *attorney general,* county, *or city or town* attorney as provided by law.

Prosecution.

Other reports.

5. The state examiner must report as provided in section 2 [82-4002] of this act.

Duty of prosecutor to report to state examiner.

6. It shall be the duty of the county attorneys of the various counties of the state of Montana and the attorneys of the various cities and towns of the state of Montana to make report to the state examiner within thirty days after receiving from the state examiner the report of any examination of any county, city or town, as to what proceedings he has instituted or is intending to institute relating to violations of law and nonperformance of duty, as set forth in the report of the state examiner.

On failure to report—salary withheld.

7. If any county or city attorney refuses or neglects to notify the state examiner within thirty days after receiving the report of any examination of any county, city or town, as to what proceedings he has instituted or is about to institute against any officer for violations of law or nonperformance of duty, as evidenced by matters of record; and as set forth in the state examiners report; the state examiner may withhold the salary of such county or city attorney by filing notice with the proper

HeinOnline -- 1971 vol. II 1407 1971

officials, until proper and satisfactory explanation has been made to the state examiner for such nonperformance of duty, provided further, that should the county or city attorney fail or refuse to prosecute such cases, the state examiner may employ an attorney to prosecute such case at the expense of the county, city or town."

Examiner may employ attorney.

Approved March 15, 1971.

CHAPTER NO. 389.

An Act to Amend Section 75-6303, R.C.M., 1947, Providing a District Judge with the Discretionary Power to Excuse a Child from Compulsory School Attendance.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-6303, R.C.M., 1947, is amended to read as follows:

Duty to cause instruction—child of seven years—through eighth grade.

"75-6303. **Compulsory enrollment and excuses.** Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year and has not yet reached his sixteenth birthday, or of a child who has not completed the work of the eighth (8th) grade, shall cause the child to be instructed in the English language and in the subjects prescribed by section 75-7503 or section 75-7504, whichever is applicable.

Enrollment.

Such parent, guardian or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he establishes residence in the district unless: (1) the child is

Exceptions—private school.

enrolled in a private institution which provides instruction in the subjects prescribed by section 75-7503 or section 75-7504, whichever is applicable, and in which the basic language taught is English;

Other school.

(2) the child is enrolled in a school of another district or state under any of the tuition provisions of this title;

Home study.

(3) the child is provided with supervised correspondence study or supervised home study under the transportation provisions of this title; or

Excused for disability.

(4) the child is excused from enrollment in a school

HeinOnline -- 1971 vol. II 1408 1971

of the district when it is shown that his bodily or mental condition does not permit his attendance and the child cannot be instructed under the special education provisions of this title.

The excuse provided for in subsection (4), above, shall be issued by the district superintendent, or the county superintendent when there is no district superintendent employed by the district. Whenever an excuse is denied by the applicable official, an appeal of such decision may be made to the district court of the county within ten (10) days after the decision upon giving a bond in the amount set by the court to pay all costs of the appeal. The decision of the district court shall be final.

Issuance of excuse.

Appeal on denial.

(5) the child is excused from compulsory school attendance upon a determination by a District Judge that such attendance is not in the best interest of the child.''

Determination by district judge.

Approved March 15, 1971.

CHAPTER NO. 390.

An Act to Amend Section 87-105 of the Unemployment Compensation Law, R.C.M., 1947, by Amending the Benefit Eligibility Conditions to Require Requalifying Work as a Condition of Qualification for Benefits in a Second Benefit Year; and Conditions for Payment of Benefits Based on Service with Nonprofit Organizations and State Hospitals and Institutions of Higher Education in Conformity with Public Law 91-373, Employment Security Amendments of 1970.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 87-105, R.C.M., 1947, is amended to read as follows:

Amending clause.

"87-105. **Benefit eligibility conditions.** An unemployed individual shall be eligible to receive benefits for any week of total unemployment within his benefit year; only if the commission finds that—

Unemployment benefits—eligibility.

Findings.

(a) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulation as the commission may prescribe, except that the commission may, by regulation,

Registration for work—reporting.

HeinOnline -- 1971 vol. II 1409 1971

prescribe that such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this act, provide for registration and reporting for work by mail or through other governmental agencies.

Claim.

(b) He has made a claim for benefits in accordance with the provisions of section 87-107(a).

Availability.

(c) He is able to work and is available for work and is seeking work, provided, however, that no claimant shall be considered ineligible in any week of unemployment for failure to comply with the provisions of this subsection if such failure is due to an illness or disability which occurs after he has registered for work and no suitable work has been offered to such claimant after the beginning of such illness or disability.

Waiting period—one week.

New benefit year—waiting week.

(d) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of one (1) week. However, if claimant's benefit year expires during a period of compensable unemployment, claimant will continue to receive weekly benefits, in a new benefit year, if otherwise eligible, without interruption to serve the waiting week for the new benefit year, but will thereafter be required to serve the waiting week before receiving benefits during subsequent unemployment in the new benefit year. No week shall be counted as a week of total unemployment for the purpose of this subsection:

(1) If benefits have been paid with respect thereto;

(2) Unless the individual was eligible for benefits with respect thereto;

(3) Unless it occurs within the benefit year of the claimant;

(4) Unless it occurs after benefits first could become payable to any individual under this act.

Eligibility—second benefit year.

Earnings.

(e) An individual who received benefits during a benefit year must perform services for remuneration after the beginning of that year as a condition for receiving benefits in a second benefit year. The service may be in either covered or non-covered employment, however, the individual must have earned the lesser of three-thirteenths

HeinOnline -- 1971 vol. II 1410 1971

(3/13) of his high quarter or his second benefit year or six (6) times his weekly benefit amount of that same year.

(f) Benefits based on service in employment defined in section 87-148 (j) (6) and 7) and section 87-110 (d) shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this act; except that benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education (as defined in section 87-148 (n)) shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for any institution or institutions of higher education for both such academic years or both such terms."

Benefits payment.

Exceptions.

Approved March 15, 1971.

CHAPTER NO. 391.

An Act to Amend Section 84-1601, R.C.M., 1947, to Provide for an Electrical Energy Producers' License Tax of One and four Hundred Thirty-Eight Thousandths Percent (1.438%), and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1601, R.C.M., 1947, as amended by section 1, chapter 5, extraordinary session, Laws of 1969, is amended to read as follows:

Amending clause.

"84-1601. **Electrical energy producers' license tax.** That in addition to the license tax now provided by law, each and every individual, firm, partnership, common-law trust, corporation, association or other organization now engaged in the generation, manufacture or production of electricity, and electrical energy in the state of Montana, either through water power or by any other means, for barter, sale or exchange and hereinafter referred to as the "producer", shall on or before the fifteenth day of each calendar month beginning with the

Electrical energy producers' monthly statement of gross revenue.

HeinOnline -- 1971 vol. II 1411 1971

fifteenth day of May, 1969, render a statement to the state board of equalization of the state of Montana, showing the gross amount of money received on account of sales of electricity and electrical energy during the preceding calendar month without any deduction, and shall pay a license tax thereon in the sum of one and *four hundred thirty-eight thousandths* percent *(1.438%)* of such gross amount as shown on such statement in the manner and within the time hereinafter provided; *and such tax shall be effective for the taxable year commencing April 1, 1969, and also for each taxable year thereafter.*"

Licensetax 1.438%.

Taxable years beginning April 1, 1969.

Effective April 1, 1971.

Section 2. This act is effective on April 1, 1971.

Approved March 15, 1971.

CHAPTER NO. 392.

An Act to Amend Section 84-2004, R.C.M., 1947, to Provide for a Permanent Metalliferous Mines License Tax and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-2004, R.C.M., 1947, as amended by section 1, chapter 9, extraordinary session, Laws of 1969, is amended to read as follows:

Computation—annual license tax—mine operators.

"84-2004. **Amount of tax.** The annual license tax to be paid by such person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead or any other metal or metals, precious or semi-precious gems or stones are produced, shall be, *for the production years commencing on or after January 1, 1970 and for each production year thereafter,* one dollar ($1), together with an additional sum or amount computed on the gross value of product which may have been derived by such person from such business, work or operation within this state during the calendar year immediately preceding, at the following rates: the rate of tax shall be fifteen hundredths of one percent (0.15 of 1%) of the first one hundred thousand dollars ($100,000) of the gross value of the product; five hundred seventy-five thousandths of one percent (0.575 of 1%) of the amount by which such gross value of product exceeds one hun-

Beginning January 1, 1970. $1 plus percentage of gross value.

HeinOnline -- 1971 vol. II 1412 1971

dred thousand dollars ($100,000) and does not exceed two hundred and fifty thousand dollars ($250,000); eighty-six hundredths of one percent (0.86 of 1%) of the amount by which such gross value of product exceeds two hundred and fifty thousand dollars ($250,000) and does not exceed four hundred thousand dollars ($400,000); one and fifteen hundredths percent (1.15%) of the amount by which the gross value of product exceeds four hundred thousand dollars ($400,000) and does not exceed five hundred thousand dollars ($500,000) and one and four hundred thirty-eight thousandths percent (1.438%) of the amount by which the gross value of product exceeds five hundred thousand dollars ($500,000)."

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved March 15, 1971.

CHAPTER NO. 393.

An Act Relating to Management and Regulation of the Floodways of Watercourses as Prescribed; to Define Terms; to Provide for Certain Duties and Powers of the Montana Water Resources Board as Prescribed; to Provide for a Floodway Obstruction Removal Fund; to Declare Certain Acts Unlawful; and to Provide for Penalties.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The people of the state of Montana find that recurrent flooding of a portion of the state's land resources causes loss of life, damage to property, disruption of commerce and governmental services, and unsanitary conditions; all of which are detrimental to the health, safety, welfare and property of the occupants of flooded lands and the people of this state, and that the public interest necessitates management and regulation of flood-prone lands and waters in a manner consistent with sound land and water use management practices which will prevent and alleviate flooding threats to life and health, and reduce private and public economic losses. Recurrent flooding —regulation necessary for public good.

HeinOnline -- 1971 vol. II 1413 1971

Policy and purposes.

Section 2. The policy and purposes of this act are to guide development of the floodway areas of this state consistent with the enumerated findings; to recognize the right and need of watercourses to periodically carry more than the normal flow of water; to provide state coordination and technical assistance to local units in management of floodway areas; to coordinate federal, state and local management activities for floodway areas; to encourage local governmental units to manage flood-prone lands including the adoption, enforcement and administration of land use regulations and to provide the Montana water resources board with authority necessary to carry out a comprehensive floodway management program for the state.

Specifically, it is the purpose of this act to:

Dangerous uses.

(1) restrict or prohibit uses which are dangerous to health, safety of property in times of flood or cause increased flood heights or velocities;

Flood protection.

(2) require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction;

Land information.

(3) develop and provide information to identify lands which are unsuited for certain development purposes because of flood hazard.

Definitions.

Section 3. As used in this act, unless the context otherwise requires:

"A flood of fifty-year frequency."

(1) "A flood of fifty-year frequency" shall mean a flood magnitude expected to recur on the average of once every fifty (50) years, or a flood magnitude which has a two percent (2%) chance of occurring in any given year;

"Artificial obstruction."

(2) "Artificial obstruction" shall mean any obstruction which is not a natural obstruction;

"Channel."

(3) "Channel" shall mean the geographical area within either the natural or artificial banks of a watercourse or drainway;

"Board."

(4) "Board" shall mean the Montana water resources board;

"Designated flood way."

(5) "Designated floodway" shall mean a floodway whose limits have been designated and established by order of the board.

HeinOnline -- 1971 vol. II 1414 1971

(6) "Drainway" shall mean any depression two (2) feet or more below the surrounding land serving to give direction to a current of water less than nine (9) months of the year, having a bed and well-defined banks; provided, that in the event of doubt as to whether a depression is a watercourse or drainway, it shall be presumed to be a watercourse; "Drainway."

(7) "Flood" shall mean the water of any watercourse or drainway which is above the bank or outside the channel and banks of such watercourse or drainway; "Flood."

(8) "Floodway" shall mean the channel of a watercourse or drainway and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the flood water of any watercourse or drainway; "Floodway."

(9) "Floodway-encroachment lines" shall mean the lines limiting a designated floodway; "Floodway-encroachment lines."

(10) "Floodplain" shall mean the area adjoining the watercourse or drainway which has been or may hereafter be covered by flood water; "Floodplain."

(11) "Establish" shall mean construct, place, insert, or excavate; "Establish."

(12) "Natural obstruction" shall mean any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located within the floodway by a nonhuman cause; "Natural obstruction."

(13) "Obstruction" shall mean any dam, wall, riprap, enbankment, levee, dike, pile, abutment, projection, revetment, excavation, channel rectification, bridge, conduit, culvert, building, refuse, automobile body, fill, or other analogous structure or matter in, along, across, or projecting into any floodway which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property; "Obstruction."

(14) "Owner" shall mean any person who has dominion over, control of, or title to an obstruction; "Owner."

(15) "Political subdivision" shall mean any incorporated city or town or any county organized and having authority to adopt and enforce land-use regulations; and "Political subdivision."

HeinOnline -- 1971 vol. II 1415 1971

"Watercourse."

(16) "Watercourse" shall mean any depression two (2) feet or more below the surrounding land serving to give direction to a current of water at least nine (9) months of the year, having a bed and well-defined banks; provided, that it shall, upon order of the board, also include any particular depression which would not otherwise be within the definition of watercourse.

Duties of board—comprehensive program.

Section 4. (1) The board shall initiate a comprehensive program for the delineation of designated floodways for every major water course and drainway in the state.

Study to acquire flood data. Arrangements with other agencies.

It shall make a study relating to the acquiring of flood data, and have authority to enter into arrangements with the United States geological survey, the United States army corps of engineer or any other state or federal agency for such acquisition.

Public hearing—floodway-enroachment lines.

(2) When sufficient data have been acquired to reasonably locate the floodway of a flood of fifty-year frequency, the board shall establish, by order, after a public hearing, floodway-encroachment lines for such a floodway within which a political subdivision may establish land-use regulation.

Data and maps—standards.

The board shall furnish such data to officials of the political subdivision having jurisdiction over such areas together with a map outlining the areas involved, a copy of this act, adopted rules and regulations of the board, and suggested minimum standards. These standards, rules and regulations shall reflect gradations in flood hazard based on flood frequency and other criteria as outlined in subsection (2) of section 7 of this act.

Location.

The location of the encroachment lines shall be the estimated outer boundary of the floodway of fifty-year frequency flood, as determined from the available data.

Recording with county clerk.

The board shall record all floodway-encroachment lines established by it in the office of the county clerk and recorder of each county in which such lines are found.

Alteration after hearing.

The board shall have the power to alter such lines at any later time, by order, after a public hearing if a reevaluation of the then available flood data warrants it.

Publication of notice.

Notice of any such hearing or order of the board establishing or altering any such line shall be given by publishing such notice once each week for three consecutive weeks in a legal newspaper published or of general circulation in the area involved, the last publication of which shall be not less than ten (10) days prior to the date set for the hearing or the effective date of such order.

HeinOnline -- 1971 vol. II 1416 1971

On failure to adopt land-use regulations.

(3) If within one (1) year from the date of transmittal of the flood plain information to officials of the political subdivisions, any political subdivision has failed to adopt land-use regulations which meet or exceed the minimum standards of the board, the designated floodway shall be enforced and no artificial obstruction or nonconforming use shall be established by any person within the floodway-encroachment lines for such a fifty-year flood as established by the board under subsection (2) of this section, unless specifically authorized by the board.

Enforcement.

Public nuisance.

Section 5. Any artificial obstruction or nonconforming use in any designated floodway enforced under subsection (3) of section 4 of this act and not exempt under section 6 of this act is hereby declared to be a public nuisance unless a permit has been obtained for such artificial obstruction or nonconforming use from the board.

Permit required—artificial obstruction—noncomforming use.

Section 6. (1) It shall be unlawful for a person to establish any artificial obstruction or nonconforming use within a designated floodway, or (2) for any owner to permit any artificial obstruction to remain within a designated floodway without a permit from the board. This act shall not affect any existing artificial obstruction or nonconforming use established in the floodway prior to the effective date of this act and before the board has enforced a designated floodway under subsection (3) of section 4 of this act; provided, that no person shall make nor shall any owner allow alterations of any artificial obstruction within a designated floodway whether the obstruction proposed for alteration was located in the floodway before or after the effective date of this act except upon express written approval of the board. Maintenance of an obstruction shall not be construed to be an alteration.

Alteration.

Approval.

Open space uses permitted.

(2) The following open space uses shall be permitted within the designated floodway, to the extent that they are not prohibited by any other ordinance or statute, and provided they do not require structures other than portable structures, fill, or permanent storage of materials or equipment; (a) agricultural uses (b) industrial-commercial uses such as loading areas, parking areas, emergency landing strips, (c) private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps,

HeinOnline -- 1971 vol. II 1417 1971

swimming areas, parks, wildlife management and natural areas, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails (d) forestry, including processing of forest products with portable equipment (e) residential uses such as lawns, gardens, parking areas and play areas (f) excavations subject to the issunce of a permit under section 7.

Nonconforming uses prohibited.

(3) The following nonconforming uses shall be prohibited within the designated floodway: (a) Any building for living purposes or place of assembly or permanent use by human beings (b) any structure or excavation that will cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, or reduce the carrying capacity of the floodway (c) the construction or permanent storage of any object subject to flotation or movement during flood level periods.

Issuance of permits.

Section 7. (1) The board shall have the power to issue permits for the establishment or alteration of obstructions which would otherwise violate section 6 of this act. The application for the permit shall contain such information as the board shall require, including complete maps, plans, profiles and specifications of the obstruction and watercourse or drainway.

Application.

Considerations by board.

(2) In passing upon such application, the board shall consider (a) the danger to life and property by water which may be backed up or diverted by such obstruction, (b)the danger that the obstruction will be swept downstream to the injury of others, (c)the availability of alternate locations, (d)the construction or alteration of the obstruction in such a manner as to lessen the danger, (e) the permanence of the obstruction, (f) the anticipated development in the forseeable future of the area which may be affected by the obstruction, and (g)such other factors as are in harmony with the purpose of this act.

Conditions.

Maintenance.

The board may make a part of such permit any reasonable conditions it may deem advisable. In order for the permit to continue to remain in force, the obstruction must be maintained so as to comply with the conditions and specifications of the permit.

Approval or denial.

(3) Permits for obstructions to be established in the floodway of watercourses must be specifically approved

HeinOnline -- 1971 vol. II 1418 1971

or denied within a reasonable time by the board; permits for obstructions in the floodways or drainways shall be conclusively deemed to have been granted sixty (60) days after the receipt of such application by the board, or after such time as the board shall by rule specify, unless the board notifies the applicant that the permit is denied.

Fee $10.

(4) Every application for a permit shall be accompanied by a nonrefundable application fee of ten dollars ($10) which the state treasurer shall credit to the Floodway Obstruction Removal Fund.

Deposit.

Powers and duties of board.

Section 8. The powers and duties of the board relative to obstructions in a board floodway shall include the following:

Removal of obstructions by board.

(1) Where an obstruction to a floodway established under subsection (2) of section 4 of this act has been created by fallen trees, silt, debris, wreckage, unanchored automobile bodies, and like matter, the board may, in its discretion, remove the obstruction, in which case the cost of removal shall be borne by the board; and

Notice and hearing —failure of owner to remove.

(2) Where, after investigation, notice, and hearing, an order has been issued to the owner of an obstruction not exempt under the provisions of section 6 of this act for its removal or repair, and the order is not complied with within such reasonable time as may be prescribed, or if the owner cannot be found or determined, the board may make or cause such removal or repairs to be made, the cost of which shall be borne by the owner and shall be recoverable in the same manner as debts are now recoverable by law.

Costs borne by owner—recovery.

Right of access.

Section 9. The board, its agents, surveyors, or other employees, may make reasonable entry upon any lands and waters in the state for the purpose of making any investigation, survey, removal, or repair contemplated by this act. An investigation of any natural or artificial obstruction shall be made by the board either on its own initiative, on the written request of any three (3) titleholders of land abutting the watercourse or drainway involved, or on the written request of any political subdivision.

Request for investigation.

Exemptions.

Section 10. This act shall not extend to any obstruction in the floodway of a watercourse or drainway where the drainage area above the same, either within or with-

HeinOnline -- 1971 vol. II 1419 1971

out the state, is less than twenty-five (25) square miles in extent, unless a particular watercourse or drainway is expressly declared to be within the coverage of this act by order of the board.

Orders and rules.

Section 11. The board may issue such orders and rules as are necessary to implement the provisions of this act. If an order is issued to the owner of an artificial obstruction not exempt under the provisions of section 6 of this act for its removal or repair, such order shall not become effective less than ten (10) days after a hearing is held relating to such order. In addition to any requirement imposed by subsection (2) of section 4 of this act, where any order is issued which affects with particularity the land adjacent to any watercourse or drainway, notice of the contents of such order and of any required hearing shall be mailed by the board to the titleholder of such land not less than ten (10) days before the effective date of such order, or, if there is a required hearing, to the titleholder of such land and to the owner of the obstruction not less than ten (10) days before the date of such hearing; provided, that such notice need not be given to the owner of the obstruction for an order issued pursuant to subsection (2) of section 8 of this act if the owner cannot be found or determined. All orders and rules issued by the board shall be on file at the offices of the board and in the office of the county clerk of each county affected by such order or rule. Any person aggrieved by any order of the board issued under this act may appeal from such order to a court of competent jurisdiction within thirty (30) days after its effective date. In the event such an appeal is taken, enforcement of such order shall be stayed pending the outcome of such appeal. Service of notice of the appeal shall be made upon the director of the board.

Notice of hearing.

Filing.

Appeal.

Stay.

Service—notice of appeal.

Floodway obstruction removal fund.

Section 12. The state treasurer is hereby directed to create and establish the Floodway Obstruction Removal Fund and to credit to such fund for the removal of obstructions as provided in subsection (1) of section 8 of this act, such money as shall be specifically appropriated or reappropriated during any biennium by the legislature. The Montana water resources board may allocate money from the Floodway Obstruction Removal Fund for purposes provided in subsection (1) of section 8 of this act.

Allocation of money.

Penalties for violations.

Section 13. (1) Any person who violates section 6

HeinOnline -- 1971 vol. II 1420 1971

of this act shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than one hundred dollars ($100), or be imprisoned in the county jail for not more than ten (10) days, or be both so fined and imprisoned. Each day's continuance of a violation shall be deemed a separate and distinct offense.

Effect of permit.

Section 14. (1) The granting of a permit under the provisions of this act shall in no way affect any other type of approval required by any other statute or ordinance of the state, of any political subdivision or of the United States, but shall be construed as an added requirement; provided, that if a political subdivision enacts and enforces land-use regulations which meet or exceed the minimum standards of the board, the board's recommendations in regard to artificial obstructions or nonconforming uses shall be advisory only. The grant or denial of a permit shall not have any effect on any remedy of any person at law or in equity; provided, that where it is shown that there is a wrongful failure to comply with this act, there shall be a rebuttable presumption that the obstruction was the proximate cause of the flooding of the land of any person bringing suit.

Rebuttable presumption.

Limitations.

(2) No permit for the construction of any structure to be established within a designated floodway shall be granted by any political subdivision unless the applicant has first obtained the permit required by this act, or until the board acknowledges that such structure would not be an obstruction within the meaning of this act.

Liability limited.

(3) No action for damages sustained because of injury caused by an obstruction for which a permit has been granted under this act shall be brought against the state, the board, a member of the board, or its employees or agents. No provision of this act shall be construed as interfering in any way with the right of the United States to regulate interstate commerce or the navigable waters of the United States.

Remedies.

Section 15. The use of any one of the remedies or powers given to the board in this act shall not constitute a bar to the exercise of any other remedy or power given by this act.

Severability clause.

Section 16. If any section in this act or any part of any section is declared invalid or unconstitutional, such

HeinOnline -- 1971 vol. II 1421 1971

declaration of invalidity shall not affect the validity of the remaining portions thereof.

Approved March 15, 1971

CHAPTER NO. 394

An Act to Amend Section 23-3022, R.C.M. 1947, as Amended, to Delete the Provision that a Person May Not Gain or Lose Residence While Employed in the Service of the United States or of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 23-3022, R.C.M. 1947, is amended to read as follows:

Determination of voter residence.

"23-3022. **Residence, rules for determining.** For registration or voting, the residence of any person shall be determined by the following rules as far as they are applicable.

Fixed habitation.

(1) The residence of a person is where his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

Residence not gained or lost.

(2) A person may not gain or lose a residence while a student at any institution of learning, while kept involuntarily at any public institution not necessarily at public expense, while confined in any public prison, or while residing on a military reservation.

Armed forces personnel.

(3) A person in the armed forces of the United States may not become a resident in consequence of being stationed at a military facility in the state. A person may not acquire a residence by reason of being employed or stationed at a training or other transient camp maintained by the United States within the state.

Temporary absence from state.

(4) A person does not lose his residence if he goes into another state, or other district of this state, for temporary purposes with the intention of returning unless he exercises the election franchise in the other state or district.

County residence.

(5) A person may not gain a residence in a county if he comes in for temporary purposes withont the intention of making that county his home.

HeinOnline -- 1971 vol. II 1422 1971

(6) If a person moves to another state with the intention of making it his residence, he loses his residence in this state. Out of state residence.

(7) If a person moves to another state with the intention of residing there for an indefinite time, he loses his residence in this state even though he intends to return to this state at some future period.

(8) The place where a man's family resides is presumed his place of residence. However, a man who takes up or continues his residence at a place other than where his family resided with the intention of remaining is a resident of the place where he resides. Family residence.

(9) A change of residence can only be made by the act of removal joined with intent to remain in another place. There can only be one residence. Removal and intent.

(10) The term of residence must be computed by including the date of election." Term of residence.

Approved March 15, 1971

CHAPTER NO. 395

An Act Amending Section 75-8702, R.C.M. 1947, By Deleting Part-Time Student From the Definition of Resident Student. Amending Section 75-8703, R.C.M. 1947, to Allow the Spouse or Dependent Children of an Adult Employed on a Full-Time Basis Within the State of Montana to Apply for In-State Tuition Classification and Amending Section 75-8704, R.C.M. 1947, to Create a Presumption: All Sections Being Part of Senate Bill 2 of the Forty-Second Session Laws of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-8702, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-8702. **Definitions.** Terms used in this chapter are defined as follows: (1) "Domicile" means a person's true, fixed and permanent home and place of habitation. Definitions. "Domicile."

(2) "Emancipated minor" means a person under the age of *eighteen (18)* years who supports himself from his own earnings or is married; "Emancipated minor."

HeinOnline -- 1971 vol. II 1423 1971

(a) a person who received more than twenty-five percent (25%) of the cost or supporting himself from any person other than an agency of the government shall not be considered an "emancipated minor".

"Minor." (3) "Minor" mans a male or female person who has not obtained the age of twenty-one (21) years.

"Qualified person." (4) "Qualified person" means a person legally qualified to determine his own domicile.

"Resident student." (5) "Resident student" means

(a) a student who has been domiciled in Montana for one (1) year immediately preceding registration at any unit for any term or session for which resident classification is claimed. Attendance as a full time student at any college, university, or other institution of higher education shall not alone be sufficient to qualify for residence in Montana.

(b) any graduate of a Montana high school whose parents, parent, or guardian have resided in Montana at least one (1) full year of the two (2) years immediately preceding his graduation from high school. Such classification shall continue for not more than four (4) academic years if the student remains in continuous attendance at a unit."

Amending clause. Section 2. Section 75-8703, R.C.M. 1947, is amended to read as follows:

Presumptions. "75-8703. **Presumptions as to domicile.** Unless the contrary appears to the unit registering authority, it is presumed that:

Domicile of minor. (1) The domicile of a minor is that:

(a) of his father; or

(b) of his mother if there is no father; or

(c) of his guardian when the court appointing the guardian certifies that the primary purpose of the appointment is not to qualify the minor as a resident of this state; or

(d) of the parent who has custody of the minor.

Domicile of married woman. (2) The domicile of a married woman is that of her husband, except that a resident woman student who marries a nonresident does not by that fact alone lose

HeinOnline -- 1971 vol. II 1424 1971

her resident status for tuition and fee purposes for a period of four (4) years after her marriage.

Member of armed forces.

(3) Except as provided in the next subsection, residence is not gained or lost because of relocation as a member of the armed forces of the United States.

(4) Residence may be gained by a member of the armed forces of the United States, his spouse, or his children by living in Montana for one (1) year, and complying with the provisions of this section.

New domicile in state.

(5) A new domicile is established by a qualified person if he is physically present in Montana with no intention to acquire a domicile outside of Montana.

Absence from state.

(6) Domicile is not lost by absence from Montana with no intention to establish a new domicile.

High school graduates.

(7) Montana high school graduates are resident students of the system for four (4) consecutive years of attendance if:

(a) they apply for admittance to the system within one (1) year after graduation; or

(b) their parents have resided in Montana in one (1) of the two (2) years immediately preceding the graduation.

Full time employment in state.

Tuition classification.

(8) Upon moving to Montana, an adult employed on a full-time basis within the state of Montana may apply for in-state tuition classification for his spouse or any dependent minor child or both. If such person meets the requirement of full-time employment within the state of Montana and he files for the payment of Montana state income taxes, or files estimates of such taxes, or is subject to withholding of said taxes, and renounces his residency in any other state, and is not himself in the state primarily as a student, his spouse or any dependent minor child, or both, may at the next registration after qualifying be classified at the in-state rate, so long as he continues his Montana domicile. In the administration of this paragraph, neither the full-time employee or spouse shall be eligible for in-state tuition classification if the primary purpose for coming to Montana was the education of the employee or spouse."

Amending clause.

Section 3. Section 75-8704, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1425 1971

Unit determination of domicile.

"75-8704. **Evidence as to domiciliary intent — changes in status.** (1) To determine the domicile of a person, the units of the system shall apply the following rules:

Nonpayment of income tax.

(a) nonpayment of Montana income tax by a person whose income is sufficient to be taxed is highly persuasive evidence of non-Montana domicile.

Intention—domicile.

(b) a person must intend to establish a domicile in Montana.

Classification remains.

(2) After registration, a student's classification for tuition and fee purposes remains unchanged in the absence of evidence to the contrary:

Filing statement of evidence.

(a) a written statement of the evidence shall be filed with the registering authority of the unit.

Changes.

(b) changes in classification shall be in writing signed by the registering authority, and shall take effect at the student's next registration.

Minors.

(3) A minor shall qualify for a change in status only if his parents or legal guardian or person having legal custody completes the requirements for establishing domicile heretofore set forth.

Presumption—12 months of residence.

(4) *It is presumed* a minor or adult registered *as a full-time student* at any unit is not qualified for a change in his *or his dependents* classification for tuition and fee purposes unless he completes twelve (12) continuous months of residence while not attending a unit of the system *or other institution of higher learning* or while serving in the armed forces.

Appeal.

(5) Any student whose request for classification as a resident student is denied has the right of appeal to the executive secretary of the Montana university system:

Procedures.

(a) immediately upon rejection and at the request of the student, the registering authority shall forward a copy of his decision and a complete file on the student to the executive secretary.

(i) the executive secretary may accept other evidence of residence from either the student, the registering authority, or other interested persons.

Determination.

(b) within thirty (30) days of the receipt of the decision of the registering authority, the executive secretary

HeinOnline -- 1971 vol. II 1426 1971

shall determine the resident status of the student and shall notify the student and the registering authority of his decision.

(c) the executive secretary's decision may be appealed to the regents if the regents agree to entertain such an appeal."

Appeal to regents.

Approved March 15, 1971.

CHAPTER NO. 396

An Act to Require All Units of the Montana University System and All Private Colleges and Private Universities Granting Any Degree in Education to Establish a Course in Health Education to Include Drug and Alcohol Education and Abuse; to Require that Graduates in Education Shall Successfully Complete Such Course in Health Education and Drug and Alcohol Education and Abuse; and to Require All Junior High Schools and High Schools in Montana to Teach Courses in Drug and Alcohol Abuse to Their Students.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is the purpose of this act to protect the health and safety of the people of Montana from the menace of drug and alcohol abuse. The legislative assembly intends to require education graduates of any unit of the Montana university system or any private college, or private university in Montana, to be aware of the problems resulting from drug and alcohol abuse and to be somewhat knowledgeable in dealing with these problems among students, and to require all public and private junior high school students and all public and private high school students in Montana to be aware of the problems resulting from drug and alcohol abuse.

Purpose—protection from drug and alcohol abuse.

Student awareness of problems.

Section 2. All units of the Montana university system and all private colleges and private universities in Montana that offer any degree in education shall establish a credit course in health education to include drug and alcohol education and abuse by July 1, 1972. The content of the courses established in the Montana university system shall be reviewed and approved by the board of regents of the Montana university system before being

Colleges and universities—course required in drug and alcohol education by July 1, 1972.

HeinOnline -- 1971 vol. II 1427 1971

offered for study in the units of the Montana university system.

Requirement for degree in education.

Section 3. All units of the Montana university system and all private colleges and universities in Montana that offer any degree in education shall require that any person who receives any degree in education from that unit, private college or private university after December 31, 1972, must have successfully completed a course in health education to include drug and alcohol education and abuse prior to being awarded his degree.

High schools—required courses—July 1, 1972.

Section 4. All public and private junior high schools and all public and private high schools in the state of Montana shall be required to teach courses in health education to include drug and alcohol abuse to their students commencing as soon as feasible, but in any event not later than the school year commencing July 1, 1972. The context of the courses to be taught in all public junior high schools and all public high schools in Montana shall be reviewed and approved by the superintendent of public instruction before being offered for study in the public junior high schools and public high schools in Montana.

Advisory board.

Section 5. That the Montana Alcohol and Drug Dependency Commission shall act in an advisory capacity in establishing all courses required under this act, and said courses shall be established only after consultation with and advice by the Montana Alcohol and Drug Dependency Commission.

Approved March 15, 1971

CHAPTER NO. 397

An Act Providing for an Assessment on Fertilizer to Produce Funds for the Montana Cooperative Extension Service and the Montana Agricultural Experiment Station of Montana State University, Bozeman, for a Statewide Fertilizer and Related Soil Management Program of Education and Research Correlated with Soil Testing; Providing an Effective Date; and Providing an Expiration Date.

HeinOnline -- 1971 vol. II 1428 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Assessment on fertilizers sold—35c per ton.

Section 1. Monies to fund this act will be produced by an assessment of thirty-five cents ($.35) per ton of fertilizer sold within Montana. Collections shall be made in accordance with procedures in sections 3-1717 and 3-1721, R.C.M. 1947, and shall be collected from the "registrant" of fertilizer.

Collection.

Retention.

Deposit.

Section 2. The assessment shall be collected by the Montana department of agriculture and up to one percent (1%) shall be retained by the department of agriculture for costs of collection and the balance will be deposited in an earmarked revenue fund with fifty percent (50%) for use by the Montana cooperative extension service and fifty percent (50%) for use by the Montana agricultural experiment station of Montana state university, Bozeman, in programs recommended by the advisory committee, established in section 4 of this act, and approved by the respective directors.

Uses of monies.

Section 3. The monies provided by this act shall be used for comprehensive statewide educational and experimental programs aimed at optimum use of fertilizers for feed and food production.

Goals—improvement of economy.

Major goals are to improve Montana's economy by providing farmers and ranchers the most accurate information possible about fertilizer use and soil management for greatest profits consistent with environment protection on the many varied soil and climatic conditions of the state.

Advisory committee—appointment—approval.

Section 4. The advisory committee shall represent fertilizer users of Montana and shall be appointed by the dean of agriculture, Montana state university, with the approval of the following: chairman of the Montana house of representatives agriculture and irrigation committee; chairman of the Montana senate agriculture committee; chairman of the Montana plant food association or its successor organization; director of Montana cooperative extension service; and director of Montana agricultural experiment station.

Terms of office.

Section 5. The advisory committee members shall be appointed for five (5) year terms; however, first appointments shall be for one, two, three, four and five-year duration for the five (5) members, respectively,

HeinOnline -- 1971 vol. II 1429 1971

with an appointment made each year thereafter. No one shall serve more than seven (7) consecutive years.

Meetings.

Section 6. The advisory committee shall meet a minimum of once each year with the directors of Montana cooperative extension service and agricultural experiment station to perform the following functions: (1) Review the educational and experimental programs financed by this act.

Functions.

(2) Recommend needed programs and/or program adjustments.

(3) Report to the Montana house and/or senate agriculture committees as requested.

Effective March 15, 1971 to March 15, 1975.

Section 7. This act shall become effective on March 15, 1971 and will expire on March 15, 1975.

Approved March 15, 1971

CHAPTER NO. 398

Control of Parking and Traffic on University Grounds.

Be it enacted by the Legislative Assembly of the State of Montana:

Regents authority—regulation of parking.

Section 1. The regents of the Montana university system, are authorized to make rules and regulations at each unit of the university system concerning the parking and operation of motor vehicles upon the grounds, streets, drives and alleys of each unit.

Parking fees.

Section 2. The regents may authorize the president of each unit to: (a) Assess fees not to exceed ten dollars ($10) per quarter for parking on campus.

Fines.

(b) Assess fines for violations of motor vehicle or parking regulations of each unit in an amount not to exceed one dollar ($1) per offense; the use of parking meters shall not be authorized unless installed prior to June 1, 1971.

Use of proceeds.

(c) The proceeds from fines and fees collected shall be remitted to the unit at which collections are made to be used for appropriate maintenance and construction of parking facilities and for traffic control.

HeinOnline -- 1971 vol. II 1430 1971

(d) Order the removal of vehicles parked in violation of motor vehicle regulations of each unit at the expense of the violator. Removal of vehicles.

(e) Establish a system of appeals at each unit concerning parking violations. Appeals system.

(f) Withhold the amount of any unpaid parking fine from any amount owing any student, employee or faculty member, subject to the concurrence of the state auditor under the provisions of section 79-101, R.C.M. 1947. Withholding of fines.

Approved March 15, 1971

CHAPTER NO. 399

An Act Amending Section 16-4307, R.C.M., 1947, Providing for the Appointment of a Trustee for a Hospital District When No Nominations are Submitted.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-4307, R.C.M., 1947, is amended to read as follows: Amending clause.

"16-4307. **Government of district — appointment, election and terms of trustees.** Said hospital district shall be governed and managed by a board of three (3) trustees, elected by the registered electors residing in the district. The trustees must be elected from among the registered electors qualified to vote at general elections within said district. The first board of trustees shall be elected at the same election held upon the creation of the district, subject to the creation thereof, shall qualify upon the organization of the district, if created, and the trustees may be nominated and have their names appear upon the ballots upon the filing with the board of county commissioners of a petition signed by any five (5) qualified electors of the district. Any elector may sign as many nominating petitions as there are persons to be elected. The trustees elected for the first board shall serve for terms commencing upon their being elected and qualified and terminating one (1), two (2) and three (3) years respectively, from the first Monday in May following their election, and until their respective successors shall be elected and qualify. Annually thereafter there *may* be elected a trustee to

Three hospital district trustees—election.

Nomination by petition.

Terms of office.

HeinOnline -- 1971 vol. II 1431 1971

serve for a term of three (3) years and until his successor shall be *qualified* and such term of three (3) years shall commence on the first Monday in May following the said trustee's election. All elections and nominations for election of trustees thereafter, shall be conducted by said qualified voters in the same manner as provided by the laws of the state of Montana for the election of school trustees of a second or third class school district, provided that wherever in the said laws of the state of Montana it is provided that certain action shall be performed or filings made with the clerk of the school board, the trustees or the board of trustees of the school district or the county superintendent of schools, the same shall, for the purposes of this act, be taken to refer to the clerk of the board of trustees of the public hospital district, the trustees or the board of trustees of the public hospital district or the county clerk, respectively. *If there is no nomination petition filed it shall not be necessary to hold an election but the board of county commissioners shall appoint a trustee to fill the term, the term to be the same as if the trustee were elected.* The trustees at their first meeting shall adopt bylaws for the government and management of the district, and shall appoint a qualified person to serve as clerk of the said board, who may or may not be one of their number. The trustees shall serve without pay. A vacancy upon the board of trustees, or in the office of clerk shall be filed by appointment by the remaining members and the appointee shall serve until the next ensuing election for trustees."

Conduct of elections.

Appointment by county.

Bylaws.

Clerk.

Vacancies.

Approved March 18, 1971

CHAPTER NO. 400

An Act to Amend Section 84-1855, R.C.M., 1947, Relating to Procedure for Refunds of Gasoline License Tax.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1855, R.C.M., 1947, is amended to read as follows:

"84-1855. **Refund of gasoline license tax — procedure.** (1) Any person who shall purchase and use any gasoline, on which the Montana gasoline license tax has been paid, for operating or propelling stationary gasoline engines, tractors used off the public highways and streets, motorboats,

Refund allowed on gasoline tax—off highway use.

HeinOnline -- 1971 vol. II 1432 1971

airplanes or aircraft, or for cleaning or dyeing, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state, shall be allowed a refund of the amount of tax paid directly or indirectly on the gasoline so used. Provided, that such refund or drawback should in no instance exceed the tax paid or to be paid, to the state of Montana; and no refund shall be allowed on any sale with respect to which an aviation gasoline tax exemption certificate has been issued.

Limitations.

Any distributor paying the gasoline license tax to this state erroneously shall be allowed a credit or refund of the amount of tax so paid.

Distributor's credit or refund.

The application for refund shall be a *signed statement on a form furnished by the board, accompanied by the invoice or invoices issued to the claimant, showing the total amount of gasoline purchased, the total amount of gasoline on which a refund is claimed, and the amount of the tax claimed for refund. Such further information pertaining to such claim shall be furnished as required by the board, provided that mileages of vehicles, where not verifiable by mechanical recorders, may be estimated by the applicant under regulations adopted by the board. Such regulations adopted by the board may include provisions for refunding taxes on gasoline used by licensed commercial vehicles off the highway. On the reverse of the applicant's copy of such form shall be printed the instructions and rules of the board pertaining to completion of the form.* If any invoice is either lost or destroyed, the purchaser may support his claim for refund by submitting an affidavit relating the circumstances of such loss or destruction and by producing such other evidence as may be required by the board.

Application form.

(2) All applications for refunds shall be filed with the board of equalization within *fourteen (14)* months after the date on which the gasoline was purchased as shown by invoices or after the date on which the tax was erroneously paid. Provided, however, that a distributor may file a claim for refund of taxes erroneously paid within three (3) years after the date of such erroneous payment. The board shall have one hundred twenty (120) days after receiving the claim to approve or reject it. If approved, the board shall issue a credit in lieu of refund for the amount of the claim, if the claimant is a

Filing within 14 months after purchase.

Distributor has 3 years.

After 120 days—board approval—credit—warrant.

HeinOnline -- 1971 vol. II 1433 1971

distributor. For all other persons, a warrant shall be drawn upon the state treasurer for the amount of the claim.

Correction procedures.

(3) Should the board of equalization find that the statement contains errors which are not fradulently inserted, it may correct the statement and approve it as corrected, or the board may require the claimant to file an amended statement. If the state board of equalization determines that any claim has been fraudulently presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the claim or affidavit is willfully false and made for the purpose of misleading, the board may reject such claim in full. If a claim is rejected, the board may suspend claimant's right to refund for a period not to exceed one (1) year.

Fraudulent claims.

Suspension.

Refund permit.

Application.

(4) Any person, other than a licensed distributor, desiring to claim refund on gasoline purchased shall obtain a permit from the state board of equalization. The application for permit shall contain the applicant's name, address, occupation, nature of business, identification of machinery and equipment in which the taxable motor fuel is to be used, and any other information which may be required by the board.

Permit number—records.

(5) Each permit issued shall bear a permit number and each claim filed shall bear the permit number of the claimant. The state board of equalization shall keep a record of all permits issued and a cumulative record of refunds claimed and paid thereunder.

Fee $1.

A fee of one dollar ($1) shall be collected from each person to whom a refund permit is issued. No refund shall be paid to any person unless said person has first secured a refund permit and paid said fee. The refund permit must be renewed and the license fee paid every five (5) years from the date of issuance.

Renewal—5 years.

Permit to sell gasoline.

(6) Any person, other than a licensed distributor, shall obtain a permit from the state board of equalization prior to selling gasoline on which a refund may be claimed. The application for permit shall contain the applicant's name, address, place or places of business in the state of Montana, and other information which may be required by the board. Permits issued shall bear a permit number and the date of issuance. The board shall keep a record of all permits issued, canceled, or suspended. Permits shall

Permit number—records.

HeinOnline -- 1971 vol. II 1434 1971

be issued for the calendar year upon payment of a fee of one dollar ($1) and must be renewed annually before the first day of January. Fee $1. Annual renewal.

Any person failing to comply with this subsection shall be subject to a fine of not less than twenty-five dollars ($25) or more than two hundred dollars ($200) or imprisonment in the county jail for a period not less than ten (10) days or more than sixty (60) days, or both fine and imprisonment.'' Penalties for violations.

Approved March 18, 1971.

CHAPTER NO. 401

An Act to Establish Budgeting and Financing Procedures for Community College Districts and Repealing Section 75-8121, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The board of trustees of a community college district shall adopt an annual general fund budget for the general maintenance and operation of the community college district. The budget shall be submitted to the regents of the state of Montana for their approval, with or without adjustment. The budget approved by the regents shall be the budget of the community college district submitted to the budget officer of the state. Annual budget—community college districts. Approval by regents.

Section 2. The annual general fund budget of a community college district shall be financed by the following sources of revenue in the order they are enumerated below: Sources of revenue.

(1) A mandatory three (3) mill levy on the community college district. 3 mill levy.

(2) The estimated revenue to be realized from student tuition during the school fiscal year. Student tuition.

(3) The total of the revenues expressed in subsections (1) and (2) shall be subtracted from the annual general fund budget amount and the amount of the difference shall be financed by a state appropriation for the purpose of financing community college districts. State appropriation.

HeinOnline -- 1971 vol. II 1435 1971

Adult education. Section 3. A community college shall be considered a district for the purposes of adult education and under the provisions for adult education may levy a one (1) mill tax for the support of its adult education program when the superintendent of public instruction approves such program.

1 mill levy.

Approval.

Authority to accept grants. Section 4. The board of trustees of a community college district is hereby authorized to accept funds from the federal government or the state of Montana, their instrumentalities or any of their agencies in aid of any one or more purposes or in maintaining and operating the community college.

Excess budget. Section 5. The board of trustees of a community college district may elect to adopt a general fund budget in excess of the budget funded by the legislature. When the board of trustees proposes such a budget, it shall submit an additional levy proposition to the electors of the district. The additional levy proposition shall be submitted to the electorate in accordance with general school election laws.

Additional levy—election.

Second Monday in August—county levy. Section 6. On the second Monday of August, the board of county commissioners of any county where a community college district is located shall fix and levy a tax on all the real and personal property within the community college district, at the rate required to finance the three (3) mill levy prescribed by subsection (1) of section 2 plus any approved additional levy. When a community college district has territory in more than one county, the board of county commissioners of each county shall fix and levy the community college district tax on all the real and personal property of the community college district situated in its county.

Deposit of monies. Section 7. Community college district monies shall be deposited with the county treasurer of the county where the community college is located or with other depositories approved by the regents.

Repealing clause. Section 8. Section 75-8121 is repealed.

Approved March 18, 1971

CHAPTER NO. 402

An Act Amending Section 40-4108, R.C.M., 1947, and Requiring Disability Insurance and Workmen's Compen-

HeinOnline -- 1971 vol. II 1436 1971

sation Policies to Provide the Insured Shall Have Full Freedom of Choice in the Selection of Any Duly Licensed Clinical Psychologist for Treatment of Illness or Injury.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 40-4108, R.C.M., 1947, is amended to read as follows: Amending clause.

"40-4108. **Policies to provide for freedom of choice of practitioners.** All policies of disability insurance, including individual, group and blanket policies, and all policies insuring the payment of compensation under the Workmen's Compensation Act shall provide the insured shall have full freedom of choice in the selection of any duly licensed physician, osteopath, chiropractor, optometrist, chiropodist *or clinical psychologist* for treatment of any illness or injury within the scope and limitations of his practice. Whenever such policies insure against the expense of drugs, the insured shall have full freedom of choice in the selection of any duly licensed and registered pharmacist." Disability insurance and workmen's compensation policies—freedom of choice provision.

Approved March 18, 1971

CHAPTER NO. 403

An Act Controlling the Distribution, Sale, Application, Disposal and Transportation of Pesticides and Devices; Creating a Temporary Advisory Committee; Providing Registration of Pesticides and Licensing of Applicators; Providing Procedure for Appeals; Providing Penalties and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act may be cited as the Montana Pesticides Act. Montana pesticides act.

Section 2. **Declaration of purpose.** The control of pesticides and their use is essential for the protection of man and his environment. Pesticides are currently considered valuable and necessary to provide sufficient quantity of quality foods and for the protection of humans from vector-borne diseases. However, the protection of man and his essential needs — water, air, food, ani- Purpose—control of pesticide use.

HeinOnline -- 1971 vol. II 1437 1971

mals, vegetation, pollinating insects, and shelter from pesticides which are potentially dangerous — is in the public interest now and in the future. Therefore, it is deemed necessary to provide for the control of pesticides.

Administration—department of agriculture.

Section 3. **Administration.** This act shall be administered by the Montana state department of agriculture.

Definitions.

Section 4. **Definitions.** For the purpose of this act unless the context clearly indicates otherwise:

"Active ingredient."

(1) "Active ingredient" means:

(a) In the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, alter life processes, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests.

(b) In the case of a plant regulator, an ingredient which acts upon the physiology to accelerate or retard the rate of growth or rate of maturation or otherwise alter the normal processes of ornamental or crop plants or the produce thereof.

(c) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant.

(d) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

"Adulterated."

(2) "Adulterated" shall apply to any pesticide if its strength of purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the article has been wholly or in part abstracted.

"Antidote."

(3) "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

"Applicator."

(4) "Applicator" means any person who applies pesticides by any method.

"Commercial applicator."

(a) "Commercial applicator" means any person who, in this state, by contract or for hire applies by aerial, ground, or hand equipment pesticides to any land, plants, animals, waters, structures, or vehicles.

"Commercial operator."

(b) "Commercial operator" means any person who applies pesticides under the supervision of a commercial applicator.

HeinOnline -- 1971 vol. II 1438 1971

(c) "Farm applicator" means a person applying pesticides to his own crops or land. "Farm applicator."

(d) "Home, yard, garden, home orchard, trees or lawn applicator" means a person applying pesticides to his own home, yard, garden, home orchard, trees or lawn. "Home, yard, garden, home orchard, trees or lawn applicator."

(5) "Beneficial insects" means those insects which, in the course of their life cycle, carry, transmit, or spread pollen to and from vegetation or which act as parasites and predators on other insects, or are otherwise beneficial. "Beneficial insects."

(6) "Commissioner" means the commissioner of agriculture. "Commissioner."

(7) "Crop" means a food intended for human or animal consumption or any fiber product. "Crop."

(8) "Dealer" means any person who sells, wholesales, offers, or exposes for sale, exchanges, barters, or gives away within this state any pesticide except those pesticides which are to be used for home, yard, garden, home orchard, shade trees, ornamental trees, bushes and lawn. "Dealer."

(9) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission. "Defoliant."

(10) "Department of agriculture" means the Montana state department of agriculture. "Department of agriculture."

(11) "Department of health" means the Montana state department of health. "Department of Health."

(12) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue. "Desiccant."

(13) "Device" means any instrument or contrivance intended for destroying, controlling, repelling, or mitigating pests but not equipment used for the application of pesticides. "Device."

(14) "Environment" means the soil, air, water, plants, and animals. "Environment."

(15) "Equipment" means any equipment or combination of equipment used in the actual application of pesticides, including such types of equipment as aircraft, ground sprayers and dusters, hand-held applicators, and water surface equipment. "Equipment."

HeinOnline -- 1971 vol. II 1439 1971

"Fungi." (16) "Fungi" means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those resident on or in living man or other animals.

"Fungicide." (17) "Fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungus.

"Herbicide." (18) "Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

"Inert ingredient." (19) "Inert ingredient" means an ingredient which is not an active ingredient.

"Ingredient statement." (20) "Ingredient statement" means either:

(a) A statement of the chemical name and common name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide; or

(b) A statement of the chemical name and common name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any there be, in the pesticide, (except section 4(20) (a) shall apply if the preparation is highly toxic to man, determined as provided in section 22 of this act); and, in addition to section 4(20) (a) or (b) in case the pesticide contains arsenic in any form, a statement of the percentage of total and water-soluble arsenic, each calculated as elemental arsenic.

"Insect." (21) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, winged and wingless forms, as, for example beetles, bugs, wasps, flies, and keds, and to other classes of anthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.

"Insecticide." (22) "Insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.

HeinOnline -- 1971 vol. II 1440 1971

(23) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the pesticide or device. "Label."

(24) "Labeling" means all labels and other written, printed, or graphic matter: "Labeling."

(a) Upon the pesticide or device or any of its containers or wrappers.

(b) Accompanying the pesticides or device at any time.

(c) To which reference is made on the label or in literature accompanying the pesticide or device, except when accurate nonmisleading reference is made to current official publications of the United States environmental protection agency, departments of agriculture, interior, or health, education and welfare, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

(25) "Misbranded" shall apply: "Misbranded."

(a) To any pesticide or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.

(b) To any pesticide:

(i) If it is an imitation of or is offered for sale under the name of another pesticide.

(ii) If its labeling bears any reference to registration under this act.

(iii) If the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public.

(iv) If the label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living man or undue hazard to the environment.

(v) If the label does not bear an ingredient statement

HeinOnline -- 1971 vol. II 1441 1971

on that part of the immediate container and on the outside or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase.

(vi) If any word, statement, or other information required by or under the authority of this act to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(vii) If, in the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living men or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such pesticide.

(viii) In the case of a plant regulator, defoliant, or desiccant which, when used as directed, is injurious to living man or other vertebrate animals or vegetation to which it is applied, or to the person applying such pesticide. Physical or physiological effects on plants or parts thereof are not deemed to be injurious when this is the purpose for which the plant regulator, defoliant, or desiccant is applied in accordance with the label claims and recommendations.

"Nematocide." (26) "Nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes.

"Nematode." (27) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform or sac-like bodies covered with cuticle, and inhabiting soil, water, animals, plants, or plant parts; may also be called nemas or eelworms.

"Official sample." (28) "Official sample" means any sample of pesticide or device taken by the department of agriculture or its authorized representative.

"Person." (29) "Person" means any natural person, individual, firm, partnership, association, corporation, company,

HeinOnline -- 1971 vol. II 1442 1971

joint stock association, or body politic, or any organized group of persons whether incorporated or not; and includes any trustee, receiver, assignee, or similar representative thereof.

(30) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed and any form of plant or animal life or virus, except virus on or in living man or other animal, which is normally considered to be a pest of which the commissioner may declare to be a pest. "Pest."

(31) "Pesticide" means: "Pesticide."

(a) Any substance or mixture of substances, including any living organism or any product derived therefrom, intended for preventing, destroying, controlling, repelling, altering life processes, or mitigating any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, that may infect, or be detrimental to persons, vegetation, crops, animals, structures, or households or be present in any environment or which the department of agriculture may declare to be a pest.

(b) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and,

(c) Any other substances intended for such use as may be named by the department of agriculture by regulation after calling a public hearing for such purpose.

(32) "Plant regulator" means any substance or mixture of substances affecting the rate of growth or rate of maturation or for otherwise altering physiological condition of plants, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. "Plant regulator."

(33) "Registrant" means the person registering any pesticide or device pursuant to the provisions of this act. "Registrant."

(34) "Restricted use pesticide" means any pesticide, including highly toxic pesticides, which the department of agriculture has found and determined, subsequent to a hearing, to be injurious when used in accordance with registration, label, directions and cautions to persons, beneficial insects, animals, crops or the environment other than the pests it is intended to prevent, destroy, control or mitigate. "Restricted use pesticide."

HeinOnline -- 1971 vol. II 1443 1971

"Retailer." (35) "Retailer" means any person who sells, offers, or exposes for sale, exchanges, barters, or gives away within this state any pesticide for home, yard, lawn and garden use, in quantities or concentrations as determined by the department of agriculture.

"Rodenticide." (36) "Rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animals.

"Weed." (37) "Weed" means any plant or part thereof which grows where not wanted.

Registration of pesticides required. Section 5. **Registration.** Every pesticide distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state, shall be registered with the department of agriculture, and such registration shall be renewed annually by the manufacturer or formulator of the pesticide. (1) The department of agriculture shall register all approved pesticides and those so registered shall be subject to registration fees and all other provisions of this act. All registrations of pesticides shall expire on December 31, following date of issuance, unless otherwise terminated.

Statement of applicant. (a) The applicant for registration shall file with the department of agriculture a statement including:

Name and address. (i) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the registrant.

Label. (ii) A complete copy of the label of the pesticide, the United States environmental protection agency registration number, if the pesticide is so registered, and a statement of all claims to be made for it including directions for use.

Trade name. (iii) The trade and chemical name of the pesticide.

Tests. (iv) If requested by the department of agriculture, a full description of tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last re-registered.

HeinOnline -- 1971 vol. II 1444 1971

Registration—imported pesticides.

(b) Any pesticide imported into this state, which is subject to the provisions of any federal act providing for the registration of pesticides and which has been duly registered under the provisions of said act shall be registered in the state, provided that the state may restrict the use and application of the pesticide by type of applicator, time and place and may establish special registrations of pesticides as outlined in sections 5 (6) and 22 (3). Provided that the annual registration fee is paid and registration information required by the department of agriculture is provided.

Annual fee $10.

(c) The applicant shall pay an annual fee of ten dollars ($10) for each pesticide registered, such fees to be deposited in the treasury of the state to the credit of the general fund.

Department may require formula.

(2) The department of agriculture, whenever it deems it necessary in the administration of this act, may require the submission of the complete formula and certified analytical standards of any pesticide. If it appears to the department of agriculture that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 6 of this act, it shall register the article.

Notice to applicant.

(3) If it does not appear to the department of agriculture that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this act, it shall notify the applicant of the manner in which the articles, labeling, or other material required to be submitted fails to comply with the act so as to afford the applicant an opportunity to make the necessary corrections. If upon receipt of such notice, the applicant does not make the corrections, the department of agriculture may refuse to register the article. The department of agriculture in accordance with the procedures specified by the department of agriculture, may suspend or cancel the registration of a pesticide whenever it does not appear that the article or its labeling comply with the provisions of this act. Whenever an application for registration is refused or the department of agriculture proposes to suspend or cancel a registration the registrant may appeal to the department of agriculture as provided for in section 24.

Refusal to register.

Suspension—cancellation.

Appeal.

HeinOnline -- 1971 vol. II 1445 1971

Review—two years.

(4) The department of agriculture shall review all registered pesticides at least every two (2) years and make appropriate recommendations to the commissioner.

In state shipments.

(5) Notwithstanding any other provision of this act, registration is not required in the case of a pesticide shipped from one plant within the state to another plant within the state by the same person.

Review of applications.

(6) (a) The departments of health, agriculture and fish and game shall review all applications for registration of a pesticide and/or device submitted to the department of agriculture. The department of agriculture shall provide the departments of health and fish and game with a complete copy of the application, related correspondence and a statement of the department of agriculture's proposed action on the application. The departments of health and fish and game shall approve or disapprove the application within three (3) days after the receipt of the application. If the departments of health, agriculture and fish and game are in agreement with the proposed registration, the department of agriculture shall proceed with its registration.

Approval or disapproval—three days.

Interagency conference.

(b) The department of agriculture shall establish a time and place for an interagency conference for the purposes of resolving the registration of any pesticide and/or device if two (2) of the departments approves of the proposed registration, the commissioner shall proceed with the registration.

Notice of changes.

(c) The registrant applying for registration shall be notified as to proposed changes in registration. If the agencies cannot resolve the proposed registration following the interagency conference, the registrant may request a joint administrative hearing before the departments of agriculture, health and fish and game.

Advisory committee —appointment.

(d) Following the interagency conference, and if requested, the administrative hearing, the proposed registration of a pesticide or device has not been resolved, the commissioner of agriculture shall appoint an advisory committee as outlined in section 28 to resolve by majority vote the registration of any pesticide. The advisory committee's recommendations on the registration shall be accepted by the agencies and implemented by the department of agriculture.

HeinOnline -- 1971 vol. II 1446 1971

Section 6. **Prohibited acts.** (1) It shall be unlawful for any person to distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce between points within this state any of the following: Unlawful acts.

(a) Any pesticide which has not been registered pursuant to the provisions of section 5 of this act, or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration, or if registration or reregistration has been refused, revoked, cancelled or suspended. The department of agriculture may allow a change in the labeling or formula of a pesticide within a registration period without requiring reregistration of the produce when such change does not adversely affect the product for its intended use and if proper application therefor is made. Sale of unregistered pesticides.

(b) Any pesticide, unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing: Label required.

(i) The name and address of the manufacturer, registrant, or person for whom manufactured.

(ii) The trade and chemical name, brand, or trademark under which said article is sold.

(iii) The net weight or measure of the content; however, subject to such reasonable variations as the department of agriculture may permit.

(c) Any pesticide which contains any substance or substances in quantities highly toxic to man, determined as provided in section 22 of this act, unless the label shall bear, in addition to any other matter required by this act: Toxic substances—label requirements.

(i) The skull and crossbones. Skull and crossbones.

(ii) The word "poison" prominently in red on a background of distinctly contrasting color. "Poison."

(iii) A statement of an antidote for the pesticide. Antidote.

HeinOnline -- 1971 vol. II 1447 1971

Coloration.

(d) The pesticides commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium flouride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this act, or any other white powder pesticide which the department of agriculture, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the environment and the feasibility of such coloration or discoloration, shall, by regulations, require to be distinctly colored or discolored, unless it has been so colored or discolored. The department of agriculture may exempt any pesticide to the extent that it is intended for a particular use from the coloring or discoloring required or authorized by this section if it determines that such coloring or discoloring for such use is not necessary for the protection of the public health and the environment.

Adulteration—misbranding.

(e) Any pesticide which is adulterated or misbranded, or any device which is misbranded.

(2) It shall be unlawful for any person to:

Destruction of label prohibited.

(a) Detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this act or regulations promulgated hereunder, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this act.

Use of formula prohibited.

(b) Uses for his own advantage or to reveal, other than to the department of agriculture or proper officials or employees of the state or the courts of this state in response to a subpoena, to physicians, or to veterinarians, or in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of section 5 of this act.

Rights to inspect and analyse.

Section 7. **Sampling and analysis.** (1) The department of agriculture shall have the authority to sample, inspect, make analysis of pesticides or devices distributed within this state at such time and place and to such extent as it may deem necessary to determine whether such pesticides or devices are in compliance with the provisions of this act. The department of agriculture is authorized with a warrant or the consent of the inhabitant or owner

HeinOnline -- 1971 vol. II 1448 1971

to enter upon any public or private premises including any vehicle of transport in order to have access to pesticides or devices and to records relating to their distribution.

(2) The methods of sampling and analysis shall be those adopted by the department of agriculture from sources such as the Journal of the Association of Official Analytical Chemists. Methods.

Section 8. **Embargo.** (1) Whenever a duly authorized agent of the department of agriculture finds or has probable cause to believe that any pesticide or device: Findings.

(a) Is adulterated or misbranded;

(b) Has not been registered under the provisions of section 5 of this act;

(c) Fails to bear on its label the information required by this act; or

(d) Is a white powder pesticide and is not colored as required under this act;

he shall affix to such article a tag or other appropriate marking, giving notice that such pesticide or device is, or is suspected of being adulterated or misbranded, not registered, fails to bear the required information on the label, is a white powder pesticide and not colored as required, and has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise, without such permission, or to remove or alter the tag or marking. Markings. Embargo.

(2) When an article detained or embargoed under section 8(1) has been found by such agent to be in violation, if after thirty (30) days the violation has not been resolved, he may petition the district court in whose jurisdiction the article is detained or embargoed for a condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking. Petition for condemnation.

(3) If the court finds that a detained or embargoed article is in violation of section 8(1), such article shall Findings of court.

HeinOnline -- 1971 vol. II 1449 1971

Destruction. after entry of the decree be destroyed at the expense of the claimant thereof, under the supervision of such agent,

Costs assessed against claimant. and all court costs and fees and storage and other proper expenses shall be assessed against the claimant of such pesticide or device or his agent; provided that when the adulteration or misbranding can be corrected by proper

Court order. labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such pesticide or device shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the department of agriculture. The expense

Return to claimant. of such supervision shall be paid by claimant. The article shall be returned to the claimant of the pesticide or device on the representation to the court by the department of agriculture that the article is no longer in violation of this act, and that the expenses of such supervision have been paid.

Pesticide applicator's license required. Section 9. **Commercial applicator.** It shall be unlawful for any person to engage in the business of applying pesticides for another without a pesticide applicator's license obtained from the department of agriculture. The

Fee $10. application shall be accompanied by a fee of ten dollars ($10). The provisions of this section shall not apply to any person employed only to operate any equipment used for the application of any pesticide, and in which the person has no financial interest or other control over such apparatus other than its day-to-day mechanical operation for the purpose of applying any pesticide.

Annual application. Section 10. **Application for applicator's license.** (1) Application for a pesticide applicator's license provided for in section 9 shall be made annually before applying pesticides in any calendar year from the department of agriculture.

Aerial application. (2) If the application is made for a license to engage in aerial application of pesticides, the applicant shall first meet all of the requirements of the federal aviation agency and the aeronautics commission of this state to operate the equipment described in the application.

Procedures. Section 11. **Commercial operator.** The department of agriculture may establish procedures for controlling pesticide operators including necessary fees by regulation.

HeinOnline -- 1971 vol. II 1450 1971

Section 12. **Applicators and operators examination.** (1) The department of agriculture shall publish and distribute or have available upon request such information as may be helpful to persons engaged in the application of pesticides, including information that may be required or which may appear upon any examination given to applicators and operators by the department of agriculture.

Distribution of information.

(2) The department of agriculture shall require an applicant for a license to show upon written examination that he possesses adequate knowledge concerning the proper use and application of pesticides under the classification for which he has applied. Provided that the applicator and operator may not be required to take a reexamination, upon renewal of licensing.

Examination of applicants.

Section 13. **Dealers.** (1) It is unlawful for a dealer to sell, deliver, or have delivered within this state any pesticide without first procuring a license from the department of agriculture for each calendar year or portion thereof. Pesticide fieldmen or salesmen not under supervision of a licensed dealer shall be licensed as a dealer.

Dealer's license required.

(2) The dealer shall furnish the department of agriculture the names and addresses of its fieldmen and salesmen selling pesticides within the state. The application for a license shall be accompanied by a fee of ten dollars ($10).

Fieldmen and salesmen.

Fee $10.

(3) The dealer shall require the purchaser of any restricted pesticide to exhibit their license or permit issued under authority of this act before completing a sale.

Exhibit of license.

(4) Licensed dealers shall not be required to obtain a retail noncommercial license or pay the fee; however, all other provisions of section 15 shall apply.

Section 14. **Dealers examination.** Each applicant applying for a dealer's license and/or his employee(s) in charge of pesticide sales shall be required to pass a reasonable examination administered by the department of agriculture. Dealers applying for relicensing may not be required to take an additional examination if they have met the department of agriculture's requirements.

Examination of dealers.

Section 15. **Retail noncommercial sale of pesticides.** (1) The department of agriculture is authorized to designate the pesticides that may be sold in this state at retail for home, yard, garden, and lawn use. Only pesti-

Designation of pesticides for home use.

HeinOnline -- 1971 vol. II 1451 1971

Limitations on quantity sold.

cides so designated may be sold at retail. The department of agriculture may also limit the retail sale of such designated pesticides to quantities up to a specific number of pound(s) or gallon(s) and of such concentrations as would be sublethal to humans and animals if small amounts thereof were accidentally swallowed, inhaled, sprayed, or dusted on the skin.

Pesticide retail license required.

(2) Each pesticide retail outlet shall be required to obtain an annual license from the department of agriculture for purchasing and selling retail pesticides. The

Fee $10.

application for a license shall be accompanied by a minimum fee of ten dollars ($10).

Agricultural pesticide use.

Section 16. **Farm applicators.** (1) The department of agriculture shall establish which are restricted use pesticides for agricultural use. Pesticides so restricted cannot be utilized by the farm applicator on commercial crops, land, or livestock, except as provided in (2) below.

Farm applicators permit required.

(2) Farm applicators desiring to apply restricted use pesticides on commercial crops, land, or livestock may obtain an annual special use permit from the department of agriculture. The department of agriculture shall re-

Examination.

quire the applicant to show upon written examination that he possesses adequate knowledge to use and apply restricted agricultural pesticides and the justification for their use on commercial crops, land or livestock.

Exemptions.

Provisions of this act relating to licensing of farm applicators shall not apply to any farm applicator applying nonrestricted pesticides on his own land, or on lands of his neighbor's; PROVIDED, that:

(a) He operates farm property and operates and maintains pesticide application equipment primarily for his own use.

(b) He is not regularly engaged in the business of applying pesticides for hire and that he does not publicly hold himself out as a pesticide applicator.

(c) He operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his immediate neighbors.

Nonresident applicant.

Section 17. **Licensing nonresidents.** Any nonresident applying for a license under this act to operate in the state of Montana shall file a written power of attorney

HeinOnline -- 1971 vol. II 1452 1971

designating the secretary of state as the agent of such nonresident upon whom service of process may be had in the event of any suit against said nonresident person, and such power of attorney shall be so prepared and in such form as to render effective the jurisdiction of the courts of the state of Montana over such nonresident applicant; provided, however, that any such nonresident who has a duly appointed resident agent upon whom process may be serviced as provided by law, shall not be required to designate the secretary of state as such agent. The secretary of state shall be allowed such fees as provided by law for designating resident agents. The department of agriculture shall be furnished with a copy of such designation of the secretary of state or of a resident agent, such copy to be duly certified by the secretary of state.

Secretary of state—agent for process.

Resident agent.

Fees.

Section 18. **Revocation of licenses and permits.** The department of agriculture shall establish the policy and procedures on the revocation of licenses or permits. The department of agriculture may refuse to grant, renew, or may revoke a license or permit, as the case may require when the department of agriculture is satisfied that the licensee or holder of a permit is not qualified to sell, use, or apply pesticides under the conditions in the locality in which he operates or has operated, or that he has committed any of the following acts, each of which is declared to be a violation of this act:

Revocation procedures.

Authority to withhold licenses for cause.

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized.

(2) Applied unapproved or illegal materials.

(3) Operate in a faulty, careless, or negligent manner,

(4) Operated faulty or unsafe equipment.

(5) Refused or neglected to comply with the provisions of this act, the rules and regulations adopted hereunder, or of any lawful order of the department of agriculture.

(6) Refused or neglected to keep and maintain the records required by this act, or to make reports when and as required.

(7) Made false or fraudulent records or reports.

HeinOnline -- 1971 vol. II 1453 1971

(8) Operated equipment for the commercial application of a pesticide without having a license or permit.

(9) Used fraud or misrepresentation in making an application for a license or permit or renewal of a license or permit.

Appeal.

Decisions of the department of agriculture relating to the issuing of licenses or permits may be appealed.

Government agencies subject to pesticide act.

Section 19. **Government agencies.** (1) All state agencies, municipal corporations, or any other governmental agency shall be subject to the provisions of this act and rules adopted thereunder concerning the application of pesticides. Applicators and operators operating equipment for the application of pesticides used by any state agencies, municipal corporations or any governmental agencies shall be subject to the provisions of sections 9, 10, 11 and 12 of this act and the department of agriculture shall issue a limited commercial applicator's or operator's license without a fee which shall be valid only when such applicators and operators are applying pesticides for such agencies. Provided, that the jurisdictional health officer, state veterinarian, their duly authorized representatives or governmental research personnel are exempt from this licensing requirement when applying pesticides to experimental areas.

Exemptions.

Proof of financial responsibility within two years.

Section 20. **Liability.** The department of agriculture shall within two (2) years after the effective date of this act, require from each commercial pesticide applicator proof of financial responsibility in amounts to be determined under such rules and regulations as made by the department of agriculture.

Report of loss within 30 days.

Section 21. **Report of loss or damage—effect of failure to report.** (1) A person suffering loss or damage resulting from the use or application of any pesticide by any person shall, within thirty (30) days from the time the occurrence of the loss became known to him, file with the department of agriculture a verified report of loss setting forth, so far as known to the claimant, the following:

Requirements.

(a) Name and address of claimant.

(b) Type, kind, and location of property alleged to be injured or damaged.

HeinOnline -- 1971 vol. II 1454 1971

(c) Date the alleged injury or damage occurred.

(d) Name of person applying the pesticide and allegedly responsible for the loss or damage.

(e) Name of the owner or occupant of the property for whom such pesticide application was made.

Criminal or civil action.

(2) The filing of such a report or the failure to file such a report shall not be alleged in any complaint which might be filed in a court of law, and the failure to file shall not be considered any bar to the maintenance of any criminal or civil action.

Effect of failure to file report of loss.

(3) The failure to file such a report shall not be a violation of this act. However, if the person failing to file such report is the only one injured from such use or application of a pesticide by any person, the department of agriculture may refuse to hold a hearing for the denial, suspension, or revocation of a license issued under this act until such report is filed. The filing of such report shall not constitute institution of a civil or criminal suit in any court, state or federal.

Rules and regulations.

Section 22. **Rules and regulations.** (1) The department of agriculture shall have authority to adopt by reference without a public hearing regulations adopted under the federal insecticide, fungicide, and rodenticide act, as amended; or after due public hearing, to adopt all rules and regulations necessary to carry out the provisions of this act.

Public hearings.

Methods.

(2) The rules and regulations may prescribe methods:

Pesticide use.

(a) Of registration, application, use or restricting use, prohibiting use, offering or exposing for sale, any pesticide.

Toxicity.

(b) Of determining whether pesticides are highly toxic to man.

Coloration.

(c) Of determining standards of coloring or discoloring for pesticides, and to subject pesticides to the requirements of section 6 of this act.

Licensing.

(d) Of licensing commercial applicators and operators, dealers, retailers, establishing methods of record keeping for applicators, operators, dealers, and retailers, and provide for the review of the records by the depart-

HeinOnline -- 1971 vol. II 1455 1971

ment of agriculture's authorized agent and the submission of the records to the department of agriculture upon written request.

Permits. (e) Of issuing farm applicator special use permits and the maintenance and submission of records by farm applicators issued special use permits.

Analysis. (f) Of collection, examination, and standard deviation from guarantee analysis and umpire analysis of pesticides and/or devices.

Equipment. (g) Of operating and maintaining equipment used by applicators.

Examinations. (h) Of developing examinations which shall be held periodically throughout the state.

Forms. (i) Of establishing the form and content of all applications for licenses and permits.

Designation for sale. (j) Of designating pesticides that may be sold at retail for home, yard, garden, and lawn use. The department of agriculture may also limit retail sale of pesticides, up to a specific number of pounds or gallons and the concentration as would be sublethal to humans and animals if small amounts thereof were accidentally swallowed, inhaled, sprayed, or dusted on the skin.

Revocation. (k) Of revoking licenses and permits.

Control of application agents. (l) Of registering or controlling any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or effect thereof, whether or not distributed in a package or container separate from that of a pesticide with which it is to be used.

Pesticide fertilizers. (m) Of registering pesticide fertilizer and other chemical blends or in lieu of registration, establish licensing, inspection and fees for blending plants.

Device registration. (n) Of establishing registration procedures for devices with a fee not to exceed five dollars ($5) per type of device, specifying classes of devices to be registered, and provide for additional requirements.

Other rules and regulations. (3) Where the department of agriculture finds that

HeinOnline -- 1971 vol. II 1456 1971

such rules and regulations are necessary to carry out the purposes and intent of this act, such rules and regulations may relate to the time, place, manner, and method of registration, application, or selling of the pesticides, may restrict or prohibit use of pesticides in the state or in designated areas during specified periods of time and shall encompass all reasonable factors which the department of agriculture deems necessary to prevent damage or injury to:

Factors—prevention of damage or injury.

(a) Persons, animals, or pollinating insects from the effect of drift or careless application.

Careless application.

(b) The environment.

Environment.

(c) Plants, including forage plants.

Plants.

(d) Wildlife.

Wildlife.

(e) Fish and other aquatic life.

Aquatic life.

In issuing such regulations, the department of agriculture shall give consideration to pertinent research findings and recommendations of other agencies of this state or of the federal government.

Research.

(4) Emergency power. In the event that the department of agriculture finds that an emergency exists which requires immediate action with regard to the registration, use or application of pesticides, the commissioners may, without notice or hearing, issue necessary orders, rules or regulations to protect the public health, welfare and safety. An order, rule or regulation issued under this provision shall be effective for a period no longer than sixty (60) days after it is issued. If the department of agriculture determines that the emergency order, rule or regulation should remain in effect, a public hearing under section 23 shall be held within the sixty (60) day period to determine whether or not the order, rule or regulation should be adopted by the department of agriculture.

Emergency procedures.

60 day period.

Public hearing.

(5) All rules, regulations, and orders issued by the department of agriculture shall be in writing, shall be entered in full in books to be kept by the department of agriculture for that purpose, shall be indexed, and shall be public records open for inspection at all times during reasonable office hours. Except for orders establishing or changing rules of practice and procedure, all orders made and published by the department of agriculture

Records.

Findings of fact.

HeinOnline -- 1971 vol. II 1457 1971

shall include and be based upon written findings of fact.

Certified copies as evidence.

A copy of any rule, regulation, or order certified by the department of agriculture or its secretary shall be received in evidence in all courts of this state with the same effect as the original.

Public hearings.

Section 23. **Hearings.** (1) Public hearings. Except as provided in section 22, no rule or regulation shall be made by the department of agriculture without a public

21 day notice.

hearing upon at least twenty-one (21) days notice. The public hearing shall be held at such time and place as may be prescribed by the department of agriculture, and any interested person shall be entitled to be heard.

(a) Notice of public hearing on the adoption of rules or regulations shall be made by the department of agriculture as follows:

Informal notice.

(i) Informal notice of the hearing will be sent to all registrants of pesticides, to all licensed pesticide applicators, including farm applicators with restricted use permits, and to all licensed pesticide dealers or retailers, provided that the notice shall be sent only to the respective group or groups directly affected by the rules and regulations. Farm applicators of nonrestricted pesticides will be given informal notice through farm groups, organizations or associations and by means of farm publications.

Publication.

(ii) In all cases of public hearings for adoption of rules and regulations, notice thereof shall be published in five (5) newspapers of general circulation in the state once a week for two (2) successive weeks and the department of agriculture shall issue appropriate press releases.

Requirements of notice.

(iii) Notices and publications shall be issued in the name of the state of Montana, shall be signed by the commissioner of the department of agriculture, shall specify the style and number of the proceedings, and the time and place of the hearing, and shall briefly state the purpose of the proceeding and method of procedure.

Proof of service.

(iv) Proof of service by publication shall be made by the affidavit of the printer or publisher of the newspaper. Proof of service by mailing shall be made by the affidavit of the commissioner of the department of agriculture.

HeinOnline -- 1971 vol. II 1458 1971

(2) **Complaints.** In all cases where a complaint has been made by the department of agriculture or its authorized agents or by any person that any provision of this act or any rule, regulation, or order of the department of agriculture is being or has been violated, notice of the hearing to be held on such complaint shall be given to the interested persons by one of the following methods:

Complaints.

Notice of hearing.

(a) Personal service or service by publication in the manner as is now or shall hereafter be provided by law for the service of process in the civil action in the courts of this state; or

Personal service—publication.

(b) By certified or registered United States mail with first-class postage prepaid thereon and addressed to the last known mailing address of the person or persons affected.

Mail.

(c) Proof of personal service shall be made by affidavit by the officer or person authorized by law to serve process or by any agent of the department of agriculture in the manner as is now or may hereafter be provided by law for the service of process in a civil action in the district courts of this state.

Proof of personal service.

(3) Except as otherwise in this act provided, the department of agriculture may act upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the department of agriculture, the department of agriculture shall promptly fix a date for a hearing thereon and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The department of agriculture shall enter its order and findings on complaints and petitions within thirty (30) days after the hearing. In the case of any hearing held by the department of agriculture, the persons affected or the persons testifying may be represented by legal counsel.

Petition.

Notice.

Hearing.

Findings and order—30 days.

Section 24. **Administrative appeals.** Persons adversely affected by a decision or proposed decision by the department of agriculture may request a hearing before the commissioner to show cause for the action or proposed action of the department of agriculture. (1) The application for a hearing shall be acted upon within ten (10) days after its filing, and if granted, the hearing shall be held without undue delay.

Administrative appeal.

HeinOnline -- 1971 vol. II 1459 1971

Judicial review—30 days.

Section 25. **Judicial review.** Any person adversely affected by the rules, regulations, or orders of the department of agriculture may obtain judicial review thereof by filing in the district court within thirty (30) days after entry of such order, a petition praying that the rule, regulation, or order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the department of agriculture, and thereupon the department of agriculture shall file in court the record of the proceeding on which it based the order. The court shall have jurisdiction on affirm or set aside the order complained of in whole or in part. The finding of the department of agriculture with respect to question of fact shall be sustained if supported by substantial evidence when considered on the record as a whole. Upon application, the court may remand the matter to the department of agriculture to take further testimony if there are reasonable grounds for the failure to produce the evidence in the prior hearing. The department of agriculture may modify its finding and its order by reason of the additional record and must file any modification of the findings or order with the clerk of the court.

Petition.

Record.

Jurisdiction.

Remand.

Modification.

Subpoena power.

Section 26. **Subpoena power of department of agriculture.** (1) The department of agriculture shall have the power to subpoena witnesses, to administer oaths, and to require the production of records, books, and documents for examination at any hearing or investigation conducted by it. Subpoenaed witnesses shall be paid the same per diem and mileage as is authorized by the law for state employees.

Failure to comply.

(2) In case of failure or refusal on the part of any person to comply with the subpoena issued by the department of agriculture or in case of the refusal of any witness to testify as to any material matter regarding which he may be interrogated, any district court in the state, upon good cause shown by the application of the department of agriculture, may issue a warrant of attachment for such person and if after hearing the court finds his failure or refusal to be unjustified, compel him to comply with such subpoena, and to attend before the department of agriculture and produce any subpoenaed records, books, and documents for examination, and to give his testimony. Such court shall have the power to

Warrant of attachment.

HeinOnline -- 1971 vol. II 1460 1971

punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein. Contempt.

Section 27. **Public information.** The department of agriculture as it deems proper may alone or in cooperation with other state or federal agencies publish information regarding aspects of the use and application sections or registration sections of this act. This information cannot disclose operations of selling, production, or use of pesticides by any person. Public information.

Section 28. **Advisory committee.** (1) The commissioner of the state department of agriculture may appoint advisory committees to study and make recommendations on special pesticide problems in the state. The advisory committee shall consist of individuals representing, equally, controlled industry, agriculture, health and wildlife. Governmental personnel, university personnel not included, shall not be represented on the advisory committee. Governmental personnel shall meet with the committee in an advisory capacity when requested by the committee. The advisory committee shall not exceed twelve (12) members. The commissioner of the department of agriculture shall establish the time period in which the advisory committee shall hold meetings. The time period shall not exceed two (2) years. The department of agriculture shall provide the necessary administrative, secretarial, and any other essential items to the advisory committee. Advisory committees—appointment. Maximum—twelve members. Meetings.

(2) Each member of the advisory committee shall receive as compensation for his services the sum of twenty-five dollars ($25) per day for each day actually expended in the performance of his duties and shall be reimbursed for actual per diem and necessary traveling expenses as provided by state law. Per diem—$25. Expenses.

(3) The advisory committee may request that the department of agriculture hold a public hearing as outlined in section 23, to assist it in gathering factual data and information on the special problem(s) assigned it. Hearings.

Section 29. The department of agriculture in cooperation with other state and federal agencies shall develop and conduct appropriate educational programs. The educational programs shall inform those individuals deal- Educational programs.

HeinOnline -- 1971 vol. II 1461 1971

ing in and applying pesticides as to correct methods of formulating, applying, storing, disposing, handling, and transporting pesticides.

Cooperation with other agencies.

Section 30. **Cooperation with other agencies.** The department of agriculture may cooperate with agencies of this state or its subdivisions or with any agency of any other state or the federal government for the purpose of carrying out the provisions of this act and for securing uniformity of regulations.

Right of access.

Section 31. **Enforcement.** In enforcing this act, the department of agriculture or its duly authorized agents upon reasonable cause shall have the authority to enter

Warrant or consent.

upon private and public premises and property with a warrant or consent of the inhabitant or owner to inspect or investigate at reasonable time: (1) Equipment subject to this act;

(2) Actual or reported adverse effects caused by pesticides in humans, crops, animals, land, or other property; or

(3) Records on the selling or use of pesticides and the person's stock of pesticides.

Unlawful to discard polluting pesticides.

Section 32. **Discarding pesticides.** It shall be unlawful for any person to discard any pesticide or pesticide container in such a manner as to cause injury to humans, domestic animals, wildlife, or to pollute any waterway in a way harmful to any wildlife therein or to the environment.

Severability clause.

Section 33. **Separability.** If any provision of this act is declared unconstitutional, or the applicability thereof to any person of circumstances is held invalid, by the court of competent jurisdiction, the constitutionality of the remainder of the act and the applicability thereof to other persons and circumstances shall not be affected thereby.

Penalties for violations.

Section 34. **Violation.** (1) Any person convicted of violating any of the provisions of this act or the rules and regulations issued thereunder or who may misrepresent, impede, obstruct, hinder, or otherwise prevent or attempt to prevent the department of agriculture or its duly authorized agent in performance of its duty in connection with the provisions of this act, shall be adjudged guilty of a misdemeanor.

HeinOnline -- 1971 vol. II 1462 1971

(2) The department of agriculture or its authorized representative is hereby authorized to apply to the district court of the county or any county wherein a violation has occurred to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or regulation promulgated under the act notwithstanding the existence of other remedies of law. The injunction is to be issued without bond. Injunction.

(3) Nothing in this act is to be construed as requiring the department of agriculture or its authorized agent to report for prosecution or for the institution of seizure proceedings minor violations of the act when it believes the public interest will be best served by other remedial action or by a suitable notice of warning in writing; nor is any part of this act to be construed to apply to common carriers transporting shipments tendered to them by the general public. Other remedies.

(4) Notwithstanding any other provisions of this section, if any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 5 of this act, he shall, upon conviction, be fined not more than five hundred dollars ($500) or imprisoned for not more than one (1) year or both. Penalties for unlawful use of formulas.

(5) In all prosecutions under the registration section involving the composition of a lot of pesticide, a certified copy of the official analysis signed by the department of agriculture's authorized chemist shall be accepted as prima facie evidence of the composition. Official analysis as evidence.

Section 35. Sections 27-201, 27-202, 27-203, 27-204, 27-205, 27-206, 27-207, 27-208, 27-209, 27-210, 27-211 and 27-212, R.C.M., 1947, are repealed. Repealing clause.

Section 36. The registration and licensing provisions of this act shall be effective January 1, 1972. Effective January 1, 1972.

Approved March 18, 1971

CHAPTER NO. 404

An Act Relating to the School Foundation Program; Providing for Changes in Financial Schedules for the Maxi-

HeinOnline -- 1971 vol. II 1463 1971

mum General Fund Budgets for Elementary and High Schools; Amending Section 75-6905; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-6905, R.C.M., 1947, is amended to read as follows:

Limitations on district general fund budget.

Exceptions.

"75-6905. **Maximum-general-fund-budget-without-a-*voted*-levy schedules for elementary and high schools.** The total amount of the general fund budget of any district shall not be greater than the general fund budget amount specified in the following schedules, except when a district has adopted an emergency general fund budget under the provisions of section 75-6727 or when a district has voted an additional levy under the provisions of section 75-6923.

Elementary schools—1971-72.

Elementary School Schedule for 1971-72

(1) For each elementary school having an ANB of nine (9) or fewer pupils, the maximum shall be seven thousand four hundred eleven dollars ($7,411), if said school is approved as an isolated school.

(2) For schools with an ANB of ten (10) pupils, but less than eighteen (18) pupils, the maximum shall be seven thousand four hundred eleven dollars ($7,411) plus two hundred thirty-two dollars ($232) per pupil on the basis of the average number belonging over nine (9).

(3) For schools with an ANB of eighteen (18) pupils and employing one (1) teacher, the maximum shall be nine thousand four hundred ninety six dollars ($9,496) plus three hundred twenty dollars ($320) per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB of twenty-five (25).

(4) For schools with an ANB of eighteen (18) pupils and employing two (2) full-time teachers, the maximum shall be sixteen thousand seven hundred ninety-six dollars ($16,796) plus two hundred nine dollars ($209) per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB of fifty (50).

(5) For schools having an ANB in excess of forty (40) the maximum on the basis of the total pupils (ANB) in the district for elementary pupils will be as follows:

HeinOnline -- 1971 vol. II 1464 1971

For a school having an ANB of more than forty (40) and employing a minimum of three (3) teachers, the maximum of five hundred ninety-eight dollars ($598) shall be decreased at the rate of forty-three cents ($.43) for each additional pupil until the total number (ANB) shall have reached a total of one hundred (100) pupils. For a school having an ANB of more than one hundred (100) pupils, the maximum of five hundred seventy-two dollars ($572) shall be decreased at the rate of fifty-one cents ($.51) for each additional pupil until the ANB shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum shall not exceed four hundred seventy dollars ($470) for each pupil.

Computation—maximum per pupil.

(6) The maximum per pupil, for all pupils (ANB) and for all elementary schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB. All elementary schools operated within the incorporated limits of a city or town shall be treated as one (1) school for the purpose of this schedule.

High School Schedule for 1971-72

High schools 1971-72.

(7) For each high school having an ANB of twenty-four (24) or fewer pupils, the maximum shall be thirty-six thousand and forty dollars ($36,040).

(8) For a secondary school having an ANB of more than twenty-four (24) pupils, the maximum one thousand five hundred two dollars ($1,502) shall be decreased at the rate of nine dollars seventy-five cents ($9.75) for each additional pupil until the ANB shall have reached a total of forty (40) such pupils. For a school having an ANB of more than forty (40) pupils, the maximum of one thousand three hundred forty-six dollars ($1,346) shall be decreased at the rate of six dollars sixty cents ($6.60) for each additional pupil until the ANB shall have reached one hundred (100) pupils. For a school having an ANB of more than one hundred (100) pupils, a maximum of nine hundred forty-nine dollars ($949) shall be decreased at the rate of two dollars fifteen cents ($2.15) for each additional pupil until the ANB shall have reached two hundred (200) pupils. For a school having an ANB of more than two hundred (200) pupils, the maximum of seven hundred thirty-four dollars ($734) shall be decreased by forty-nine cents ($.49) for each additional pupil until the

HeinOnline -- 1971 vol. II 1465 1971

ANB shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum of six hundred eighty-five dollars ($685) shall be decreased at the rate of thirteen cents ($.13) until the ANB shall have reached six hundred (600) pupils. For a school having an ANB over six hundred (600) pupils, the maximum shall not exceed six hundred forty-eight dollars ($648) per pupil.

Computation—maximum per pupil.

(9) The maximum per pupil for all pupils (ANB) and for all high schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB. All high schools and junior high schools which have been approved and accredited as junior high schools, operated within the incorporated limits of a city or town shall be treated as one (1) school for the purpose of this schedule.

Elementary schools—1972-73 and succeeding years.

Elementary School Schedule for 1972-73 and Succeeding Years.

(10) For each elementary school having an ANB of nine (9) or fewer pupils, the maximum shall be seven thousand five hundred eighty-six dollars ($7,586), if said school is approved as an isolated school.

(11) For schools with an ANB of ten (10) pupils, but less than eighteen (18) pupils, the maximum shall be seven thousand five hundred eighty-six dollars ($7,586) plus two hundred fifty-two dollars ($252) per pupil on the basis of the average number belonging over nine (9).

(12) For schools with an ANB of eighteen (18) pupils and employing one (1) teacher, the maximum shall be nine thousand eight hundred forty-five dollars ($9,845) plus three hundred forty dollars ($340) per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB of twenty-five (25).

(13) For schools with an ANB of eighteen (18) pupils and employing two (2) full-time teachers, the maximum shall be seventeen thousand one hundred forty-five dollars ($17,145) plus two hundred twenty-eight dollars ($228) per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB of fifty (50).

(14) For schools having an ANB in excess of forty (40) the maximum on the basis of the total pupils (ANB) in the district for elementary pupils will be as follows:

HeinOnline -- 1971 vol. II 1466 1971

For a school having an ANB of more than forty (40) and employing a minimum of three (3) teachers; the maximum of six hundred eighteen dollars ($618) shall be decreased at the rate of forty-three cents ($.43) for each additional pupil until the total number (ANB) shall have reached a total of one hundred (100) pupils. For a school having an ANB of more than one hundred (100) pupils, the maximum of five hundred ninety-two dollars ($592) shall be decreased at the rate of fifty-one cents ($.51) for each additional pupil until the ANB shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum shall not exceed four hundred eighty-nine dollars ($489) for each pupil.

Computation—maximum per pupil.

(15) The maximum per pupil, for all pupils (ANB) and for all elementary schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB. All elementary schools operated within the incorporated limits of a city or town shall be treated as one (1) school for the purpose of this schedule. High School Schedule for 1972-73 and Succeeding Years

High schools—1972-73 and succeeding years.

(16) For each high school having an ANB of twenty-four (24) or fewer pupils, the maximum shall be thirty-six thousand seven hundred dollars ($36,700).

(17) For a secondary school having an ANB of more than twenty-four (24) pupils, the maximum one thousand five hundred twenty-nine dollars ($1,529) shall be decreased at the rate of nine dollars seventy-five cents ($9.75) for each additional pupil until the ANB shall have reached a total of forty (40) such pupils. For a school having an ANB of more than forty (40) pupils, the maximum of one thousand three hundred seventy-three dollars ($1,373) shall be decreased at the rate of six dollars sixty cents ($6.60) for each additional pupil until the ANB shall have reached one hundred (100) pupils. For a school having an ANB of more than one hundred (100) pupils, a maximum of nine hundred seventy-six dollars ($976) shall be decreased at the rate of two dollars fifteen cents ($2.15) for each additional pupil until the ANB shall have reached two hundred (200) pupils. For a school having an ANB of more than two hundred (200) pupils, the maximum of seven hundred sixty-one dollars ($761) shall be decreased by forty-nine cents ($.49) for each additional pupil until the ANB shall have reached three

HeinOnline -- 1971 vol. II 1467 1971

hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum of seven hundred thirteen dollars ($713) shall be decreased at the rate of thirteen cents ($.13) until the ANB shall have reached six hundred (600) pupils. For a school having an ANB over six hundred (600) pupils, the maximum shall not exceed six hundred seventy-five dollars ($675) per pupil.

Computation—maximum per pupil.

(18) The maximum per pupil for all pupils (ANB) and for all high schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB. All high schools and junior high schools which have been approved and accredited as junior high schools, operated within the incorporated limits of a city or town shall be treated as one (1) school for the purpose of this schedule.

Junior high schools—proration.

(19) The general fund budget amount for an approved and accredited junior high school shall be prorated between the elementary district general fund budget and the high school district general fund budget in the following manner:

(a) determine the per-ANB schedule amount for the school, as defined by this section, from the high school schedule;

(b) calculate the ANB for the regularly enrolled full-time pupils enrolled in the seventh (7th) and eighth (8th) grades of the junior high school;

(c) multiply the per-ANB schedule amount determined in subsection (a) by the ANB calculated in subsection (b) to determine the authorized general fund budget amount which shall be available for the elementary district general fund budget; and

(d) subtract the amount determined in subsection (c) from the total authorized general fund budget amount for the school to determine the authorized general fund budget amount which shall be available for the high school district general fund budget.

The general fund budget amount determined for each school of a district under the schedules provided in this section shall be totaled to determine the maximum-general-fund-budget-without-a-voted-levy for such district."

HeinOnline -- 1971 vol. II 1468 1971

Section 2. This act is effective immediately upon passage and approval. Effective immediately.

Approved March 18, 1971

CHAPTER NO. 405

Power of Regents to Appoint University Security Departments; Extent of Authority of University Security Departments.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The regents of the Montana university system may appoint one or more persons to be members of security departments at each unit of the university system, as such security departments are constituted on July 1, 1971, or may thereafter be constituted. Persons employed and compensated as members of the said security departments when so appointed are peace officers; however, such peace officers shall not exercise their authority except (a) upon the campuses of the Montana university system and for campus-related activities an area within one (1) mile of the exterior boundaries of each thereof, and Regents may appoint security department personnel. Peace officers. Campus and one mile area.

(b) in or about other grounds or properties owned, operated, controlled or administered by the regents or any unit of the Montana university system. Such officers shall have no power to serve and execute civil processes. University grounds.

Section 2. The president of each unit may in his discretion enter into an agreement with the city or county in which his unit is located to authorize members of the unit's security department to issue citations for parking or moving traffic violations as defined by state or municipal laws which occur within the boundaries of the campus or on streets or alleys contiguous thereto. All such citations shall be considered within the jurisdiction of the appropriate local authority, and shall be handled in the same manner as citations issued by peace officers of such local authority. Agreement. Citations—parking and traffic violations. Jurisdiction.

Section 3. The president of each unit shall have general control and direction of the security department of his unit. Control by president.

HeinOnline -- 1971 vol. II 1469 1971

Firearms.

Section 4. Security guards shall be authorized to carry firearms between sunset and sunrise and at any time when acting as guards for transportation of money or other valuables.

Approved March 18, 1971

CHAPTER NO. 406

An Act Amending Sections 75-8103, 75-8105, 75-8106, 75-8107, 75-8108, 75-8109, 75-8110 and 75-8119, R.C.M., 1947, Providing that Community College Districts Shall Be Under the Supervision of the Board of Regents and That Said Board Shall Appoint a Coordinator of Community College Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-8103, R.C.M., 1947, is amended to read as follows:

Regents supervise community college districts.

"75-8103. **Supervision by board of** *regents.* Community college districts shall be under the supervision of the *regents.* The *regents* shall:

Coordinator.

(1) Appoint a coordinator of community college *districts and request legislative appropriations for the operation of his office;*

Uniform policies.

(2) Formulate and put into effect uniform policies *as* to budgeting, record keeping, and student accounting;

Entrance—curricula.

(3) Establish minimum entrance requirements and *approve* curricular offerings for all community colleges;

Accreditation.

(4) Direct each community college district to seek accreditation from a recognized accrediting association."

Amending clause.

Section 2. Section 75-8105, R.C.M., 1947, is amended to read as follows:

Petition for election—organization of district.

"75-8105. **Petition to propose organization of community college district.** When the area of a proposed community college district satisfies the specified requirements, the registered electors of the area may petition the *regents* to call an election for the organization of a community college district. Such petition shall be signed by at least twenty per cent (20%) of the registered electors

HeinOnline -- 1971 vol. II 1470 1971

within each county or a part of a county included in the area of the proposed community college district."

Section 3. Section 75-8106, R.C.M., 1947, is amended to read as follows: Amending clause.

"75-8106. **Call of community college district organization election and proposition statement.** A petition for the organization of a community college district shall be presented to the *regents*. The *regents* shall examine the petition to determine if the petition satisfies the petitioning and community college district organizational requirements. Consideration by regents.

If the *regents* determine that the petition satisfies such requirements, the *regents* shall order the elementary districts encompassed by the proposed community college district to conduct an election on the community college district organization proposition. Such election shall be held on the next succeeding regular school election day, except that an election required by a petition received by the *regents* less than sixty (60) days before the regular school election day shall be held at the regular school election in the following school fiscal year. Conduct of election.

At such election, the proposition shall be in substantially the following form: Form of proposition.

PROPOSITION

Shall there be organized within the area comprising the School Districts of *(elementary districts shall be listed by county)*, State of Montana, a community college district for the offering of 13th and 14th year courses, to be known as the Community College District of ....., Montana, under the provisions of the laws authorizing community college districts in Montana, as prayed in the petition filed with the Board of *Regents* at Helena, Montana, on the ..... day of ....., 19.....

☐ For organization

☐ Against organization."

Section 4. Section 75-8107, R.C.M., 1947, is amended to read as follows: Amending clause.

"75-8107. **Election of trustees, districts from which elected and terms of office.** The *regents* shall provide for the election of trustees of the proposed community Election of trustees.

HeinOnline -- 1971 vol. II 1471 1971

college district at the election held for the approval of its organization. Seven (7) trustees shall be elected at large, except that should there be in such proposed community college district one or more high school districts or part of a high school district within the community college district with more than forty-three per cent (43%) and not more than fifty per cent (50%) of the total school census of the proposed district, as determined by the last school census, then each such district or part of district shall elect three (3) trustees and the remaining trustees shall be elected at large from the remainder of the proposed community college district. Should any such high school district or such part of a high school district have more than fifty per cent (50%) of the total school census of the proposed district, then four (4) trustees shall be elected from such high school district or such part of high school district and three (3) trustees at large from the remainder of the proposed community college district. If the trustees are elected at large throughout the entire proposed community college district, the one receiving the greatest number of votes shall be elected for a term of seven (7) years, the one receiving the next greatest number of votes, for a term of six (6) years, the one receiving the next greatest number of votes, for a term of five (5) years, the one receiving the next greatest number of votes for a term of four (4) years, the one receiving the next greatest number of votes for a term of three (3) years, the one receiving the next greatest number of votes for a term of two (2) years, and the elected one receiving the least number of votes for a term of one (1) year. If the trustees are elected in any manner other than at large throughout the entire proposed community college district, then the trustees elected shall determine by lot the one who shall serve for seven (7) years, the one who shall serve for six (6) years, the one who shall serve for five (5) years, the one who shall serve for four (4) years, the one who shall serve for three (3) years, the one who shall serve for two (2) years, and the one who shall serve for one (1) year. Thereafter, all trustees elected shall serve for terms of seven (7) years each."

Determination by lot.

Amending clause.

Section 5. Section 75-8108, R.C.M., 1947, is amended to read as follows:

"75-8108. **Call for nominations of trustee candidates**

HeinOnline -- 1971 vol. II 1472 1971

and notice. A call for nominations of trustee candidates for the proposed community college district shall be made by the *regents*. Notice of the call for nominations shall be published in at elast one newspaper of general circulation in each county or any portion of a county included in the proposed community college district, once a week for three consecutive weeks, the last insertion to be no less than five weeks prior to the date of the election. Such notice shall describe the geographical composition of the board of trustees membership nomination procedure and the proposal for the organization of a community college district."

Call for trustee nominations.

Publication of notice.

Section 6. Section 75-8109, R.C.M., 1947, is amended to read as follows:

Amending clause.

"75-8109. **Nomination of candidates and provision of sample ballot.** Nominations of candidates for the trustee positions must be filed with the *regents* at least thirty (30) days prior to the date of the election. Any five qualified electors may file nominations of as many persons as are to be elected to the board of trustees of the proposed community college district from their respective community college trustee election areas. The *regents* shall provide the trustees of each district ordered to conduct the community college district organization election with a sample of the ballot for the election of the board of trustees. Such sample ballot shall be reproduced by the trustees in a sufficient number to be used as the trustee election ballot."

Nominations filed with regents—30 days prior to election.

Sample ballots.

Section 7. Section 75-8110, R.C.M., 1947, is amended to read as follows:

Amending clause.

"75-8110. **Notice of organization election.** Notice of the community college district organization election and the accompanying election of a board of trustees for the proposed community college district shall be given by the *regents* by publication in at least one newspaper of general circulation in each county or any portion of a county included in the proposed community college district, once a week for three consecutive weeks, the last insertion to be no more than one week prior to the date of the election."

Publication of notice of elections.

Section 8. Section 75-8119, R.C.M., 1947, is amended to read as follows:

Amending clause.

HeinOnline -- 1971 vol. II 1473 1971

Courses of instruction—approval by regents.

"75-8119. **Courses of instruction and tuition fees.** A community college district shall provide instruction, classes, school or schools for student residents within the community college district, in academic, occupational, and adult education, subject to the approval of the *regents*. The board of trustees of such district may in their discretion determine the per capita cost of such courses, file the same with the *regents* and upon approval thereof by the *regents* shall require of all nondistrict residents who are accepted as pupils, a tuition fee in such sum as may be necessary for maintenance of such course or courses. A different tuition may be established as between nondistrict residents residing within the state of Montana and those residing outside the state of Montana. In addition thereto, such board of trustees may charge resident students such amounts as it deems necessary to maintain such courses, taking into consideration such other funds as may be available under law for the support of such courses."

Tuition fees.

Other fees.

Approved March 18, 1971

CHAPTER NO. 407

An Act to Add a New Section in Title 75, Chapter 81, Numbered 75-8126, R.C.M., 1947, and to Amend Section 75-8112, R.C.M., 1947, Prohibiting a Community College District From Granting Baccalaureate Degrees and Requiring Final Approval By the Legislature Upon Recommendation of the Board of Regents for the Establishment of a New Community College District.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section in title 75, chapter 81, numbered 75-8126, R.C.M., 1947, which reads as follows:

Baccalaureate degrees prohibited.

75-8126. A community college district shall be prohibited from granting baccalaureate degrees.

Amending clause.

Section 2. Section 75-8112, R.C.M., 1947, is amended to read as follows:

"75-8112. **Determination of approval or disapproval of proposition and subsequent procedures if approved.**

HeinOnline -- 1971 vol. II 1474 1971

Proposal to organize community college district—majority vote—coordinator shall certify results.

The proposal to organize the community college district, to carry, must receive a majority of the total number of votes cast thereon and the *coordinator of community college districts,* from the results so certified and attested, shall determine whether the proposal has received the majority of the votes cast thereon for each county or part of a county within the proposed district and shall certify the results to the *regents. Approval for the organization of a new communiety college district shall be granted at the discretion of the legislature acting upon the recommendation of the regents.* Should the certificate of the *coordinator of community college districts* show that the proposition to organize such community college district has received a majority of the votes cast thereon in each county or part of a county within the proposed district, the *regents may* make an order declaring the community college district organized and cause a copy thereof to be recorded in the office of the county clerk and recorder in each county in which a portion of such new district is located. If the proposition carries in some county or counties or parts of counties but not in all portions of the area sought to be included within the district, the *regents may* determine whether the area in which the proposition carried by a majority vote meets the assessed valuation and high school pupil enrollment requirements for the organization of a community college district, and if so, shall establish the boundaries and make an order declaring the community college district organized in the area in which the proposition has carried by a majority vote. If the proposition carries, the *regents* also shall determine which candidates have been elected trustees. Should the proposition to organize the community college district fail to receive a majority of the votes cast thereon, no tabulation shall be made to determine the candidates elected trustees.

Approval by legislature.

Regents order—recording.

Determination of area.

Boundaries.

Elected trustees.

Within 30 days—call for organization meeting.

Notice to trustees.

Within thirty (30) days of the date of the organization order, the *regents* shall set a date and call an organization meeting for the board of trustees of the community college district and shall notify the duly elected trustees of their membership and of the organization meeting. Such notification shall designate a temporary chairman and secretary for the purposes of organization.''

Approved March 18, 1971

HeinOnline -- 1971 vol. II 1475 1971

CHAPTER NO. 408

An Act to Shorten the Period for Filing Mechanics' Liens By Providing for Filing of a Notice of Completion and Amending Sections 45-501 and 45-502, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 45-501, R.C.M., 1947, is amended to read as follows:

Mechanics' lien provided.

"45-501. **Who entitled to lien.** Every mechanic, miner, machinist, architect, foreman, engineer, builder, lumberman, artisan, workman, laborer, and any other person, performing any work and labor upon, or furnishing any material, machinery, or fixture for, any building, structure, bridge, flume, canal, ditch, aqueduct, mining claim, coal mine, quartz lode, tunnel, city or town lot, farm, ranch, fence, railroad, telegraph, telephone, electric light, gas, or waterworks or plant, or any improvements, upon complying with the provisions of this chapter, for his work or labor done, or material, machinery or fixtures furnished, has a lien upon the property upon which the work or labor is done or material is furnished."

Amending clause.

Section 2. Section 45-502, R.C.M., 1947, is amended to read as follows:

Procedure.

"45-502. **How lien perfected** *(1)* Every person wishing to avail himself of the benefits of this chapter must

Filing with county clerk—within 90 days.

file with the county clerk of the county in which the property or premises mentioned in the preceding section is situated, and within ninety days after the material or machinery aforesaid has been furnished, or the work or

Account.

labor performed, a just and true account of the amount due him, after allowing all credits, and containing a cor-

Description of property—verified by affidavit.

rect description of the property to be charged with such lien, verified by affidavit, but any error or mistake in the account or description does not affect the validity of the lien, if the property can be identified by the description; which paper containing the account, description, and

Open account—90 days after last item.

affidavit is deemed the lien, and when there is an open account between the parties for labor, material, or machinery, such lien may be filed within ninety days after the date of the last item in such account, and include all items and charges contained therein, for material or machinery furnished for, or work performed on, the property on which the lien is claimed.

HeinOnline -- 1971 vol. II 1476 1971

(2) The time within which to perfect the lien by filing of the notice of lien is shortened if the provisions of section 3 of this act are complied with and a notice of completion is timely filed, in which event such notice of lien must be filed within sixty (60) days immediately following the first publication of the notice of completion.

Notice of completion.

Filing lien within 60 days.

(3) The following acts of events constitute "completion of any work or improvement" for the purpose of filing a notice of completion:

(a) The written acceptance by the owner, his agent or his representative of the building, improvement or structure. The filing of a notice of completion shall not be considered as an acceptance of the building, improvement, or other structure.

Written acceptance.

(b) The cessation from labor for thirty (30) days upon any building, improvement or structure, or the alteration, addition to or repair thereof."

Cessation of labor for 30 days.

Section 3. **Notice of completion.** (1) The owner may file a notice of completion at any time after the completion of any work or improvement.

Owner may file notice of completion.

(2) The notice of completion together with an affidavit of publication as hereinafter required shall be filed in the office of the county recorder of the county where the property is situated and the notice shall set forth:

Affidavit of publication.

Notice requirements.

(a) The date when the work or improvement was completed, or the date on which cessation from labor occurred first and the period of its duration.

Date.

(b) The owner's name or owners' names, as the case may be, the address of the owner or addresses of the owners, as the case may be, and the nature of the title, if any, of the person signing the notice.

Name.

(c) A description of the property sufficient for identification.

Description of property.

(d) The name of the contractor, if any.

Contractor.

(3) The notice shall be verified by the owner or his agent.

Verification.

(4) A copy of the notice of completion shall be published once each week for three successive weeks in a newspaper of general circulation in the county where

Publication—notice of completion.

HeinOnline -- 1971 vol. II 1477 1971

the land on which the work or improvement was performed is situated.

Approved March 18, 1971.

CHAPTER NO. 409.

An Act to Provide an Emergency and Disaster Fund for the Governor to Be Implemented by the Department of Administration, Authorizing the Governor to Expend Not to Exceed Seven Hundred Fifty Thousand Dollars ($750,000) per Biennium from the General Fund, and an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Governor may authorize expenditures for emergencies—disaster fund.

Section 1. The governor may authorize the incurring of liabilities and expenses to be paid as other claims against the state from the general fund, in the amount necessary, when an emergency or disaster justifies the expenditure and is declared by the governor, to meet contingencies and emergencies arising from hostile attacks, riots or insurrections, epidemics of disease, plagues of insects, fires, floods or other acts of God resulting in damage or disaster to the works, building or property of the state or any political subdivision thereof, or which menace the health, welfare, safety, lives or property of any considerable number of persons in any county or community of the state, upon demonstration by the political jurisdiction that such political jurisdiction has exhausted all available emergency levies, that the emergency is beyond the financial capability of the political jurisdiction to respond, and for which no appropriation is available in sufficient amount to meet the emergency or disaster, or that federal funds available for such emergency or disaster require either matching state funds or specific expenditures prior to eligibility for assistance under federal laws.

Maximum—$750,000 per biennium.

Section 2. Whenever an emergency or disaster is declared by the governor, he is authorized to expend from the general fund not to exceed seven hundred fifty thousand dollars ($750,000), in any one (1) biennium.

Duties of governor.

Section 3. The governor shall be charged with the implementation of the program, and the administration

HeinOnline -- 1971 vol. II 1478 1971

and development of rules and regulations for implementation of this act will be promulgated by the Department of Administration.

Section 4. In order to preserve the public peace, health, welfare and safety, this act shall become effective upon its passage and approval. Effective immediately.

Approved March 18, 1971.

CHAPTER NO. 410.

An Act to Amend Section 92-206, R.C.M., 1947, to Permit Private Contractors Engaged in the Performance of Contract Work for Public Corporations to Provide Workmen's Compensation Insurance Under Plans No. 2 or 3, as Provided in the Workmen's Compensation Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 92-206, R.C.M., 1947, is amended to read as follows: Amending clause.

"92-206. **Compensation plan No. 3 exclusive, etc., when a public corporation is the employer.** Where a public corporation is the employer, the terms, conditions, and provisions of compensation plan No. 3 shall be exclusive, compulsory, and obligatory upon both employer and employee. Any sums necessary to be paid under the provisions of this act by any public corporation shall be considered to be ordinary and necessary expense of such corporation, and the governing body of such public corporation shall make appropriation of and pay such sums, into the accident or administration fund, as the case may be, at the time and in the manner provided for in this act, notwithstanding that such governing body may have failed to anticipate such ordinary and necessary expense in any budget, estimate of expenses, appropriations, ordinances, or otherwise. *Whenever a contractor is engaged as an employer in the performance of contract work for a public corporation, such employer must elect to be bound by the terms, conditions and provisions of either compensation plan No. 2 or compensation plan No. 3, and the terms, conditions and provisions of the plan chosen shall be compulsory and obligatory upon both employer and employee.*

Compensation plan No. 3 compulsory for public corporation.

Contractor for public corporation election—plan no. 2 or plan no. 3.

HeinOnline -- 1971 vol. II 1479 1971

Board's authority to levy assessment.

Whenever any public corporation neglects or refuses to file with the industrial accident board monthly payroll report of its employees, the board is hereby authorized and empowered to levy an arbitrary assessment upon such public corporation in an amount of twenty-five dollars for each such assessment, which assessments shall be collected in the manner provided in this act for the collection of assessments."

Approved March 18, 1971.

CHAPTER NO. 411.

An Act to Amend Section 87-148, R.C.M., 1947, Providing Automatic Coverage for Any Employer Covered Under the Federal Unemployment Tax Act; Clarifying Definition of Employment of an Individual or Officer of a Corporation; and the Following in Conformity with Public Law 91-373, Employment Security Amendments of 1970; Amending Definition of Employment to Include Coverage of Certain Non-Profit Organizations, Hospitals or Institutions of Higher Education Operated by This State or Its Instrumentalities and Services Performed by a Citizen Outside the United States; Redefining Agricultural Employment; Defining Institutions of Higher Education and Hospitals; and Deleting Language No Longer Applicable.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87-148, R.C.M., 1947, is amended to read as follows:

Definitions.

"87-148. **Definitions.** As used in this act, unless the context clearly requires otherwise:

"Annual payroll."

(a) "Annual payroll" means the total amount of wages paid by an employer (regardless of the time of payment) for employment during a calendar year.

"Benefits."

(b) "Benefits" means the money payments payable to an individual, as provided in this act, with respect to his unemployment.

"Base period."

(c) "Base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

HeinOnline -- 1971 vol. II 1480 1971

(d) "Benefit year" with respect to any individual means, the fifty-two (52) consecutive-week period beginning with the first day of the calendar week in which such individual files a valid claim, and thereafter the fifty-two (52) consecutive-week period beginning with the first day of the calendar week in which such individual files his next valid claim after the termination of his last preceding benefit year, provided that if such filing shall result in an overlapping of benefit years the new benefit year shall begin upon the first Sunday following the expiration of his last preceding benefit year. "Benefit year."

(e) "Calendar quarter" means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31. "Calendar quarter."

(f) "Commission" means the *employment security* commission established by this act. "Commission."

(g) "Contributions" means the money payments to the state unemployment compensation fund required by this act. "Contributions."

(h) "Employing unit" means any individual or type of organization, including *the state government, any of its political subdivisions or instrumentalities,* any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one (1) or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work. "Employing unit."

(i) "Employer" means: "Employer."

(1) Any employing unit whose total annual payroll

HeinOnline -- 1971 vol. II 1481 1971

within either the current or preceding calendar year, exceeds the sum of five hundred dollars ($500);

(2) Any individual or employing unit which acquired the organization, trade or business, or substantially all of the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

(3) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this act), and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit would be an employer under paragraph (1) of this subsection;

(4) Any employing unit not an employer by reason of any other paragraph of this subsection for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which, as a condition for approval of this act for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be an "employer" under this act.

(5) Any employing unit which, having become an employer under paragraph (1), (2), or 3), *or (4),* has not, under section 87-110, ceased to be an employer subject to this act; or

(6) For the effective period of its election pursuant to section 87-110 (c) *and (d)* any other employing unit which has elected to become fully subject to this act.

"Employment."

(j) (1) "Employment" subject to other provisions of this subsection means service *by an individual or by an officer of a corporation,* including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

Service inclusions.

(2) The term "employment" shall include an individual's entire service, performed within or both within and without this state if:

Service in state.

(A) The service is localized in this state; or

(B) The service is not localized in any state but some

HeinOnline -- 1971 vol. II 1482 1971

of the service is performed in this state and (I) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (II) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

Base of operations.

Residence in state.

(3) Service not covered under paragraph (2) of this subsection, and performed entirely without this state with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this state and the commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

Service out of state.

Resident in state.

(4) Service shall be deemed to be localized within a state if—

Service deemed localized.

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the commission that:

Exclusions—independent contractors.

(A) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract and in fact; and

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

HeinOnline -- 1971 vol. II 1483 1971

Employment after December 31, 1971.

(6) The term "employment" shall include service performed after December 31, 1971, by an individual in the employ of this state or any of its instrumentalities (or in the employ of this state and one (1) or more other states or their instrumentalities) for a hospital or institution of higher education located in this state.

In state hospital or institution of higher learning.

Employment after December 31, 1971.

Nonprofit organizations.

(7) The term "employment" shall include service performed after December 31, 1971, by an individual in the employ of a religious, charitable, scientific, literary, or educational organization which is excluded from the term "employment" as defined in the Federal Unemployment Tax Act solely by reason of section 3306 (c) (8) of that Act.

(A) For the purposes of paragraphs (6) and (7) of this subsection the term "employment" does not apply to service performed:

Exclusions.

Churches.

(1) In the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

Ministers and priests.

(2) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

Schools.

(3) In the employ of a school which is not an institution of higher education; or

Rehabilitation facilities.

(4) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earnings capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or

Work-training.

(5) Services performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or any agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

HeinOnline -- 1971 vol. II 1484 1971

(6) Services performed for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution.

Inmates.

(8) The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada or the Virgin Islands), after December 31, 1971, in the employ of an American employer (other than service which is deemed "employment" under the provisions of subparagraphs (2) or (3) of this subsection or the parallel provisions of another state's law), if:

Inclusions. Service abroad.

American employer.

Conditions.

(A) The employer's principal place of business in the United States is located in this state; or

(B) The employer has no place of business in the United States, but

(1) The employer is an individual who is a resident of this state; or

(2) The employer is a corporation which is organized under the laws of this state; or

(3) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(C) None of the criteria of divisions (A) and (B) of this subparagraph is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

Election of coverage.

Claim for benefits.

(D) An "American employer", for purposes of this paragraph, means a person who is:

"American employer" defined.

(1) An individual who is a resident of the United States; or

(2) A partnership if two-thirds (2/3) or more of the partners are residents of the United States; or

(3) A trust, if all of the trustees are residents of the United States; or

(4) A corporation organized under the laws of the United States or of any state.

HeinOnline -- 1971 vol. II 1485 1971

Exclusions.

(9) The term "employment" shall not include:

Agricultural labor.

(A) Agricultural labor; the term "agricultural labor" includes all services performed *prior to January 1, 1972, which was agricultural labor as defined in this subparagraph prior to such date, and remunerated services performed afted December 31, 1971:*

Farm employment.

(1) On a farm, in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry and fur-bearing animals and wildlife.

Farm maintenance.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

Commodities and irrigation.

(3) In connection with the production or harvesting of any commodity commonly known as agricultural commodities, or in connection with the hatching of poultry, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

Handling farm commodities.

(4) In *the employ of the operator of a farm or a group of operators of farms (or a cooperative organization of which such operators are members) in* handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, *in its unmanufactured state,* any agricultural or horticultural commodity; but only if such *operator produced more than one-half (½) of the commodity with respect to which such service is performed.*

Exemption—commercial canning or freezing.

(5) The provisions of *paragraphs (1), (2), (3), and (4)* shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; *or on a farm operated for profit if such service is not in the course*

Other services.

HeinOnline -- 1971 vol. II 1486 1971

of the employer's trade or business or is domestic service in a private home of the employer. Domestic service.

(6) As used in this section, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards. "Farm" inclusions.

(B) Domestic service in a private home, local college club or local chapter of a college fraternity or sorority; Other domestic services.

(C) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States; Ships' members.

(D) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his father or mother; Family employment.

(E) Service performed in the employ of this state, *except as provided in subsection (j) (6) of this section,* or of any political subdivision thereof, or of any instrumentality of this state or its political subdivisions; Employment by state.

(F) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United States, except that national banks organized under the national banking law shall not be entitled to exemption under this section and shall be subject to this act the same as state banks; Other government employment.

(G) Service performed in the employ of community action agencies and the delegate agencies of these community action agencies may be entitled to exemption and may be subject to this act with the consent and approval of the Employment Security Commission. Community action agencies.

(H) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress; provided, that the commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner in sec- Other compensation systems. Agreements.

HeinOnline -- 1971 vol. II 1487 1971

Reciprocity.

tion 87-121 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this act;

Newspaper delivery.

(I) Services performed in the delivery and distribution of newspapers or shopping news from house to house and business establishments by an individual under the age of eighteen (18) years, but not including the delivery or distribution to any point or points for subsequent delivery or distribution.

Real estate salesmen.

(J) Services performed by real estate, securities and insurance salesmen paid solely by commissions and without guarantee of minimum earnings.

Student employment.

(K) Service performed, in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university, or by the spouse of

Spouse.

such a student, if such spouse is advised, at the time such spouse commences to perform such service, that the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and such employment will not be covered by any program of unemployment insurance.

Student work experience.

(L) Service performed by an individual under the age of twenty-two (22) who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

Hospital patient employment.

(M) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital.

HeinOnline -- 1971 vol. II 1488 1971

(k) "Employment office" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, or such other free public employment offices operated and maintained by the United States government or its instrumentalities, as the commission may approve. "Employment office."

(l) "Fund" means the unemployment compensation fund established by this act, to which all contributions required and from which all benefits provided under this act shall be paid. "Fund."

(m) "State", includes, in addition to the states of the United States of America, the District of Columbia, Puerto Rico, the Virgin Islands, and the Dominion of Canada. "State."

(n) "Institution of higher education" *for the purposes of this section,* means an educational institution which: "Institution of higher learning."

(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized in this state to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(4) is a public or other nonprofit institution.

(5) Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this state are institutions of higher education for purposes of this section.

(o) "Hospital" means an institution which has been licensed, certified or approved by the state of Montana as a hospital." "Hospital."

Approved March 18, 1971

HeinOnline -- 1971 vol. II 1489 1971

CHAPTER NO. 412

An Act Amending Section 3-228, R.C.M. 1947, Providing for the Bonding, Licensing and Fees of Warehouseman, Track Buyer, Grain Dealer and Others; and Providing Penalties for Operating Without a License.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 3-228, R.C.M., 1947, is amended to read as follows:

"3-228. **Bond — license and fees of warehouseman, track buyer, grain dealer and others — penalty for operating without a license.** Each person, firm, corporation or association or persons operating any public warehouse or warehouses subject to the provisions of this act, and every track buyer, grain dealer, broker, or commission man, or person or association of persons, merchandising in grain shall, on or before the first day of July each year, give a bond executed by a corporate surety authorized to do business in the state of Montana to the state of Montana, in such sum as the commissioner may require, conditioned upon the faithful performance of the acts and duties enjoined upon them by section 3-229, R.C.M. 1947.

Warehouse and grain dealers.

Surety bond required.

Every person or persons, firm, copartnership, corporation, or association of persons, operating any public warehouse or warehouses, and every track buyer, grain dealer, broker, commission man, person or association of persons merchandising grain in the state of Montana, shall, on or before the first day of July of each year, pay to the state treasurer of Montana a license fee in the sum of fifteen dollars ($15) for each and every warehouse, elevator, truck, tractor-trailer unit, or other place, owned, conducted or operated by such person or persons, firm, copartnership, corporation or association of persons, where or in which grain is received, stored and/or shipped, and upon the payment of such fee of fifteen dollars ($15) for each and every warehouse, elevator, truck, tractor-trailer unit, or other place, where or in which grain is merchandised within the state of Montana, the commissioner of agriculture shall issue to such person or persons, firm, copartnership, corporation or association of persons, a license to engage in grain merchandising at the place or with the licensed units designated within the

Annual license fees $15.

License shall issue.

Grain merchandising.

HeinOnline -- 1971 vol. II 1490 1971

state of Montana, for a period of one (1) *license* year *or any part thereof,* and save further that a producer may be permitted to deliver his own grain. And save further that a producer may buy and haul grain for his own use and that of his neighbors in his community, and save further that the operator of a feed lot in the state of Montana may buy and haul grain *in his own vehicle or one in his own use* for use on his own lot *and save further that a custom combiner in hauling grain that he combines shall be exempt from this act. All other persons hauling grains for hire as defined in section 8-101, R.C.M. 1947, shall give a bond executed by a corporate surety authorized to do business in the state of Montana to the state of Montana, in such sum as the commissioner may require, conditioned upon the faithful performance of the acts and duties enjoined upon them on account of or acting as an agent for another.*

Exemptions—procedures.

Feedlot operators.

Custom combiners.

Hauling grain for hire—surety bond required.

Persons hauling grain for hire, who do not acquire title to the same, shall be specifically exempt from the bonding and licensing requirements of this section if they are hauling grain for any elevator or warehouse already bonded and licensed under this section.

Exemptions.

Every track buyer, grain dealer, broker, commission man, person or association of persons merchandising grain in the state of Montana, not otherwise required to be licensed by the provisions of this act, and not exempted from the licensing requirements, shall, on or before the first day of July of each year, pay to the state treasurer of Montana a license fee in the sum of fifteen dollars ($15) and upon the payment of such fee of fifteen dollars ($15) the commissioner of agriculture shall issue to such track buyer, grain dealer, broker, commission man, person or association of persons a license to engage in grain merchandising in the state of Montana for a period of one (1) license year or any part thereof. Any person, firm, association or corporation who shall engage in or carry on any business or occupation for which a license is required by this act without first having procured a license therefor, or who shall continue to engage in or carry on any such business or occupation after such license has been revoked, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500), and each and every day that such business or occupation is so carried on or engaged in shall be a separate offense.

Grain merchandising.

Annual license fee $15.

Penalties for violations.

HeinOnline -- 1971 vol. II 1491 1971

Adequate insurance required.

In addition to the bond and license fee, a public warehouseman shall carry adequate insurance approved by the commissioner of agriculture to protect the holders of warehouse receipts from loss. A public warehouseman license shall not be issued or may be revoked for failure to comply with this insurance requirement.''

Approved March 18, 1971

CHAPTER NO. 413

An Act to be Known as the Manufactured Dairy Products Act, Repealing All of the Present Dairy Products Act and Regulations Contained in Montana Statutes, Title 3, Sections 3-2401 Through 3-2403; 3-2405 Through 3-2431; 3-2434; 3-2436 Through 3-2444; 3-2447 Through 3-2472; 3-2476 Through 3-2487; Providing for the Authority and Duties of the Commissioner of Agriculture with Respect to this Act; Defining Those Products and Procedures Regulated by this Act; Providing for the Licensing and License Fees for Dairies Producing Milk for Manufacturing Purposes, and for Manufactured Dairy Products Plants as Defined; Providing for the Same Licensing and Regulatory Authority for those Non-Dairy Products Made in the Semblance or Imitation of Those Products Defined in this Act; Providing for the Promulgation of Rules and Regulations Necessary to Carry Out the Intent and Purpose of This Act; Providing for Inspection of Dairies Providing Milk for Manufacturing Purposes and of Manufactured Dairy Products Plants, and the Enforcement of Rules and Regulations Pertaining to the Sanitary Production, Manufacture, Collection, Transportation, Handling, Storage, and Display of Products Governed by This Act; Providing for the Establishment of Standards of Composition, Quality, Purity, and Wholesomeness for Dairy and Non-Dairy Products Defined in This Act; Authorizing and Establishing Procedures for the Denial, Suspension, or Revocation, for Cause, of Licenses Issued Under Authority of This Act; Providing for Those Test Procedures, the Results of Which, May Be Used as Official and Admissible Evidence; Providing Authority for the Commissioner of Agriculture to Make Cooperative Agreements With Other State, Fed-

HeinOnline -- 1971 vol. II 1492 1971

eral, County, or Municipal Departments or Agencies As May Be Needed to Carry Out the Intent and Purpose of This Act; and Providing for the Penalties for Violation of This Act or of the Rules and Regulations Adopted Under the Authority of This Act; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Regulations—dairies and dairy products.

Section 1. The commissioner of agriculture of the state of Montana shall have the general authority to regulate, and to establish sanitation standards for persons operating dairies producing milk for manufacturing purposes; and to regulate, and establish sanitation and quality standards for any person engaged in the processing of manufactured dairy products, or of products made or sold in the semblance or imitation thereof, in the state of Montana when those products made in semblance or imitation of dairy products are made in a manufactured dairy products plant. For the purpose of promulgating these first original and unamended regulations, a committte composed of dairymen and manufactured dairy products plant operators, shall advise and assist the commissioner in the development and modification of such regulations.

Committee to assist commissioner.

Qualifications.

This committee shall be selected in the following manner: Each manufactured dairy products plant operator and one of his regular milk producers shall be entitled to serve coequally with the commissioner in the development, modification and finalizing of such proposed original and unamended regulations. Prior to such committee meeting the commissioner shall inform all manufactured dairy products plant operators concerned, of their right to serve on the above mentioned committee. Notification of such committee meeting shall be given to each manufactured dairy products plant operator concerned not less than thirty (30) days in advance of such scheduled committte meeting.

Notice of committee meeting.

Waiver of right to serve.

Failure upon the part of any manufactured dairy products plant operator and/or his selected milk producer to appear at such committee meeting shall constitute a waiver of his rights as provided for above.

Minimum standards—milk and cream.

Section 2. The commissioner may abolish and promulgate minimum standards for milk and cream used for manufacturing purposes; its production, transportation,

HeinOnline -- 1971 vol. II 1493 1971

grading, testing, use, processing, and the packaging, and storage of manufactured dairy products.

Authority to license.

Section 3. The commissioner or his authorized agents shall have authority to license those persons engaged in the production of milk for manufacturing purposes and to license those persons who manufacture dairy products, or products made in their semblance or imitation when those products made in semblance or imitation of dairy products, are made in a manufactured dairy products plant.

The commissioner shall have the authority to examine and license weighers, graders, samplers and milk and cream testers in order to establish the qualifications of such persons to perform those operations, or tests for which such licenses are issued.

Hearings—suspension, revocation or denial of licenses.

Section 4. The commissioner shall have the authority to hold and conduct hearings relative to the suspension, revocation or denial of licenses; and, for good cause, after notice and opportunity for hearing, may suspend, revoke or deny licenses issued under authority of this act.

Records.

Section 5. The commissioner shall have the authority to require dairies and dairy product manufacturers to maintain and produce for examination, or to report, such records as are necessary for carrying out his duties under this act.

Enforcement.

Section 6. The commissioner shall supervise and enforce the laws and regulations of the state of Montana pertaining to the standards of quality and sanitation of cream, whole milk, skimmed milk, condensed milk, evaporated milk, and all food additives used in manufacturing dairy products, and of all manufactured dairy products.

Penalties for violations.

Rules and regulations promulgated under authority of this act shall have the full force and effect of law, and violation of any such rules and/or regulations shall constitute a misdemeanor, punishable as provided in the general penalties section of the act, unless a specific penalty has been provided.

Severability clause.

Section 7. If any section, subdivision, phrase, or sentence of this act or of the rules and regulations promulgated under authority of this act is determined by a

HeinOnline -- 1971 vol. II 1494 1971

court of competent jurisdiction to be unconstitutional, it shall not affect the remaining portions of the act or regulations.

Licensees to receive new rules 45 days prior to effective date.

Section 8. Every new or amended rule or regulation proposed by the commissioner under authority of this act shall be mailed, to each person licensed hereunder who will be affected by such rule, regulation, or amendment, at least forty-five (45) days prior to the date on which the rule, amendment, or regulation shall become effective.

Application to vacate date.

Upon application in writing filed at least fifteen (15) days before the effective date of such proposal, by any person licensed hereunder, the commissioner shall vacate the effective date of such proposed rule, regulation, or amendment and hold a public hearing on and take evidence concerning the same. Within thirty (30) days after the conclusion of such hearing the commissioner shall make written findings, and conclusions, and a written decision based thereon, determining whether such new or amended rule or regulation shall be promulgated. No new or amended rule or regulation promulgated following such hearing and conclusion shall take effect until ninety (90) days after the date of such decision.

Public hearing.

Within 30 days—findings, conclusions and decision—effective after 90 days.

Review by district court.

The district court of the first judicial district shall have jurisdiction to review, modify, or set aside any such decision promulgating a new or amended rule or regulation under this act upon petition made to it at any time prior to the effective date of such rule or regulation by any person claiming to be adversely affected by such decision.

Inspections and investigation.

Section 9. The commissioner is authorized and directed to provide for regular periodic inspections and investigations to disclose violations of this act or of regulations promulgated under the authority of this act; to receive and provide for the investigation of complaints; and to request the institution and prosecution of civil or criminal actions, or both. The provisions of this act and the rules and regulations issued in connection herewith may be enforced by injunction in any court having jurisdiction to grant injunctive relief, and adulterated, impure, contaminated, misbranded, condemned, or mislabeled articles or products involved in a violation of this act or of said rules or regulations promulgated under the authority of this act shall be subject to seizure and disposition in accordance with an order of the court.

Civil or criminal actions.

Injunction.

Confiscation.

HeinOnline -- 1971 vol. II 1495 1971

Definitions.

Section 10. Unless the context otherwise indicates, the following terms shall be construed, respectively to mean:

"Act."

(1) The word "act" shall mean the state legislation and the regulations authorized under it pertaining to milk and cream for manufacturing purposes and to all manufactured dairy products including those dairy and non-dairy products made in the semblance or imitation of manufactured dairy products when made in a manufactured dairy products plant.

"Commissioner."

(2) The word "commissioner" shall mean the commissioner of agriculture of the state of Montana or his authorized representative.

"Department."

(3) The word "department" shall mean the department of agriculture of the state of Montana or its authorized representative.

"Division."

(4) The word "division" shall mean the dairy and egg division of the state department of agriculture and/or its representatives.

"Milk." "Cream."

(5) The words "milk" and "cream" concerning their use shall mean milk and cream sold, used or intended for manufacturing purposes or for conversion into products of a form other than the form in which originally produced or products commonly known as, but not limited to:

a. Butter.

b. Cheese including cottage cheese, low-fat cottage cheese, cheese curd and cream cheese which are either cultured or directly acidified and cheese dressings.

c. Ice cream and/or its mix.

d. Frozen dessert and/or its mix.

e. Sherbet of all kinds and/or their mixes.

f. Frozen ice cream bars, sandwiches, or cones and similar novelties.

g. Frozen desserts or products made in the semblance or imitation of frozen dessert.

h. Frozen confections and/or their mixes.

i. Water ices and/or their mixes.

HeinOnline -- 1971 vol. II 1496 1971

j. Ice milk and/or its mix.

k. French ice cream, French custard, and/or their mixes.

l. Frozen custard and/or its mix and frozen yogurt.

m. Yogurt, flavored yogurt and low-fat yogurt.

n. Sour cream—either cultured and/or directly acidified.

o. Cream cheese—either cultured and/or directly acidified.

p. Buttermilk—either cultured and/or from churned butter or directly acidified.

q. Eggnog, low-fat eggnog, eggnog flavored milk, whipped cream, flavored toppings, and similar flavored products.

r. Dry or powdered milk.

s. Condensed milk products.

Standards of identity.

The definition of what constitutes each of the items named above, numbered "a" through "s", inclusive, shall conform to the standards of identity as set forth and as may be amended in the Code of Federal Regulations. If no such standards of identity are therein defined, then the standards adopted by the department shall prevail. The labeling of all manufactured dairy products shall be in accordance with the Montana Food, Drug and Cosmetic Act.

Labeling.

"Manufactured dairy product."

(6) "Manufactured dairy product" shall mean any item set forth above enumerated from (5)a through (5)s, or any other dairy product made by incorporating milk or cream or converting milk or cream into a different state of appearance or quality.

"Manufactured dairy products plants" or "factory."

(7) The words "manufactured dairy products plant" or "factory" shall mean a place where milk or cream is collected, and converted into a product, or into a different state of appearance or quality and/or which manufactures those products listed under (5)a through (5)s, provided that if only products of semblance or imitation of dairy products are made; that plant shall not be considered as a manufactured dairy products plant.

HeinOnline -- 1971 vol. II 1497 1971

"Creamery." (8) The word "creamery" shall mean a place where butter is made for commercial purposes.

"Cheese factory." (9) The word "cheese factory" shall mean a place where cheese including cream cheese, cottage cheese, creamed cottage cheese, cheese curd, cottage cheese dressing and low-fat counterparts of cheese either cultured or directly acidified are made for commercial purposes.

"Frozen dessert plant." (10) The words "frozen dessert plant" shall mean any place where any products named in items "c" through "l" of section 5 above are made for commercial purposes.

"Cream station." (11) The words "cream station" shall mean any place other than a creamery where deliveries of milk or cream are weighed, graded, sampled, tested, or collected for purchase.

"Dairy" or "dairy farm." (12) The words "dairy" or "dairy farm" shall mean a place where one or more cows or goats are kept, a part or all of the milk or cream from which is used for manufacturing purposes.

"Milk." (13) The word "milk" (legal definition) shall mean the lacteal secretion, practically free from colostrum, obtained by the milking of one or more healthy cows located in modified accredited areas and modified certified areas or from cows in herds fully accredited as tuberculosis free by the United States Department of Agriculture or in the process of being accredited when such milk or cream is sold for use in, intended for use in or used in a manufactured dairy product.

"Cream." (14) The word "cream" shall mean the milk fat which rises to the surface when milk is allowed to stand, or which is separated from milk by centrifugal force when sold, used or intended for use in a manufactured product.

"Raw milk" or "raw milk products." (15) The words "raw milk" or "raw milk products" shall mean milk or milk products which have not been treated by a process of pasteurization.

"Person." (16) The word "person" shall mean any individual, firm, partnership, corporation, cooperative, or any other business unit or trade device.

"Pasteurization." "Pasteurizing." (17) The terms "pasteurization", "pasteurizing", and similar terms shall mean the process of heating every

HeinOnline -- 1971 vol. II 1498 1971

particle of milk or milk product to at least 145 degrees F., and holding it continuously at or above this temperature for at least thirty (30) minutes, or to at least 161 degrees F., and holding it continuously at or above this temperature for at least fifteen (15) seconds, in equipment which is properly operated and approved by the commissioner; provided, that milk products that have a higher fat content than milk or contain added sweeteners shall be heated to at least 155 degrees F., and held continuously at or above this temperature for at least thirty (30) minutes, or to at least 175 degrees F., and held continuously at or above this temperature for at least twenty-five (25) seconds; provided, however, that nothing in this definition shall be construed as barring any other pasteurization process which has been recognized by the United States Public Health Service to be equally effective and which is approved by the commissioner.

"Agent." (18) The word "agent" shall mean a person who is authorized by another person to act for him in dealing with a third person.

"Grading." (19) The term "grading" shall mean the examination of milk, cream, or products thereof, by sight, odor, taste, or laboratory analysis, the results of which determine a grade designating the quality thereof.

"Testing." "Test." "Tested." (20) The term "testing", "test", "tested" and similar words shall refer to the examination of milk, cream, or manufactured dairy products thereof, by sight, odor, taste, or biological or chemical laboratory analysis to determine the quality, wholesomeness, or composition thereof.

"Safe temperature." (21) The term "safe temperature" shall mean 45 degrees F., or less, unless the product is frozen, in which case the temperature must be at, or below 0 degrees F.

"And/or." (22) The term "and/or" used in this act or in the regulations promulgated under the authority of the act shall mean either one or the other or all.

"Producer." (23) The word "producer" shall mean the person who exercises control over the production of milk or cream, delivered to a milk or cream receiving station or manufactured dairy products plant, or who receive payment for milk or cream used in manufacturing.

HeinOnline -- 1971 vol. II 1499 1971

"Mix." (24) The word "mix" shall mean and include the liquid unfrozen product from which those frozen products listed under (5)c, (5)d, (5)e, (5)g, (5)h, (5)i, (5)j, (5)k, and (5)l above are made.

"Manufactured dairy product." (25) For purposes of reporting production, and licensing, the term "manufactured dairy product" shall mean and include but shall not be limited to:

a. Ice cream and/or its mix.

b. French ice cream, custard ice cream, French custard ice cream, and their low-fat counter parts and/or their mixes.

c. Sherbets of all kinds, and/or their mixes.

d. Animal and/or vegetable fat frozen desserts, and/or their mixes.

e. Frozen confections and/or their mixes when made in a manufactured dairy products plant.

f. Water ices and/or their mixes.

g. Frozen dessert sandwiches, bars, cones, and similar novelties.

h. Frozen desserts made of non-dairy origins, and other products made in the semblance or imitation of dairy products and/or their mixes when made in a manufactured dairy products plant.

i. Ice milk and/or its mix.

j. Cheese of all kinds including cottage cheese, cheese curd, cheese dressing and cream cheese either cultured or directly acidified.

k. Sour cream when either cultured or directly acidified.

l. Eggnog, low-fat eggnog, eggnog flavored milk and similar flavored products.

m. Buttermilk, either cultured and/or from churned butter or directly acidified.

n. Butter.

o. Yogurt — low-fat yogurt, flavored yogurt, either cultured or directly acidified, or frozen.

HeinOnline -- 1971 vol. II 1500 1971

(26) "Official test" shall mean any test procedures outlined in the sources referred to under section 11 of samples, methods, rules of evidence. "Official test."

(27) Water ice is a frozen product, containing but not limited to the following ingredients; water, sugar, flavoring, coloring, stabilizers and other ingredients allowed by the Code of Federal Regulations as optional ingredients. Water ice.

(28) The term C.I.P. shall mean the procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation and when this procedure meets the 3-A accepted practices for permanently installed sanitary product — pipelines and cleaning systems. C.I.P.

(29) The term "filled dairy products" means any milk, cream, or skimmed milk, or any combination thereof, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or dessicated, or any food product made or manufactured therefrom, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat so that the resulting product is in imitation or semblance of any dairy product, including but not limited to, milk, cream, sour cream, skimmed milk, ice cream, low-fat ice cream, whipped cream, flavored milk or skim milk yogurt, dried or powdered milk, cheese, cream, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, low-fat ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk. "Filled dairy products."

(30) The term "intrastate commerce" means any and all commerce within the state of Montana subject to the jurisdiction thereof and includes the operation of any business or service establishment. "Intrastate commerce."

(31) "Code of Federal Regulations" shall mean especially but not limited to Title 21 which contains the definitions and standards of identity for products as established by the Food and Drug Administration, United State Department of Health, Education and Welfare. "Code of federal regulations."

(32) The word "culture" means the harmless lactic acid fermenting bacteria which are added to milk and/or cream to make such manufactured dairy products as cultured buttermilk, cheese, cottage cheese, yogurt, sour "Culture."

HeinOnline -- 1971 vol. II 1501 1971

cream, cream cheese, butter, and other similar products.

"Direct acidification— directly acidified."

(33) These terms "direct acidification — directly acidified" and similar terms refer to the process of adding a food grade acid or acids to milk and/or cream in lieu of or in addition to the adding of culture.

"Mislabeled, food additives, optional ingredients, impure, misbranded, contaminated, adulterated, perishable, hazardous, unfit, spoiled, damaged."

(34) The terms "mislabeled, unwholesome, food additives, optional ingredients, impure, misbranded, contaminated, adulterated, perishable, hazardous, unfit, spoiled, damaged" and similar terms when applied to any manufactured dairy product and/or product made in semblance or in imitation of a manufactured dairy product shall have the same meanings, force and effect as those same words as they are used in the Montana Food, Drug and Cosmetic Act contained in sections 27-701 to 27-723, R.C.M. 1947, inclusive.

Use of experts for testing.

Section 11. The department may require a chemist, biologist, microbiologist, serologist, or other qualified employee of the state department of health or other laboratory approved by the commissioner, to test or analyze samples of milk, cream, manufactured dairy products, or products made in the semblance or imitation of such products.

Test methods.

Any appropriate test method listed in STANDARD METHODS FOR THE EXAMINATION OF DAIRY PRODUCTS, 12th edition — American Public Health Association, Inc., 1740 Broadway, New York, N.Y. 10019, STANDARD METHODS FOR THE EXAMINATION OF WATER AND WASTE WATER, 12th edition — American Public Health Association, Inc., 1790 Broadway, New York, N.Y. 10019, or the methods in the OFFICIAL METHODS OF ANALYIS OF THE ASSOCIATION OF OFFICIAL ANALYTICAL CHEMISTS, 11th edition as published by the Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington 4, D.C. or any other appropriate tests approved by the department, and the results of such tests or analyses shall be admissible as prima facie evidence of the facts disclosed, in any court, hearing, or proceeding arising under or from this act, when identified by the sample numbers and verified by the department representative and analyst handling the same. Such tests shall be designated and referred to as "official tests".

Prima facie evidence.

"Official tests."

HeinOnline -- 1971 vol. II 1502 1971

Purchasing samples required.

Section 12. All persons purchasing or sampling milk or cream for manufacture, sale or shipment, and paying for the same on the basis of the butterfat, protein, solids, or other compound components contained in the milk or cream as determined by official test, shall at the time of receiving such milk or cream take a sample thereof. All samples taken shall be plainly marked or labeled on the records of the purchaser or sampler to correspond with the name of the person from whom the purchase was made or sample obtained and such record of purchase shall also show the weight of the milk or cream, the results of such analysis, the date of sampling and the amount paid. All milk and cream samples upon which payment for butterfat, protein, solids, or other components is based shall be kept and suitably preserved by the purchaser for a minimum of fourteen (14) days following testing in the case of milk and for at least two (2) days in the case of cream. Such samples shall be subject to retest by the department. Nothing in this section shall prohibit the weighing or measuring of milk in and sampling of milk from farm bulk milk tanks, or the use of composite or single samples of milk according to rules and regulations adopted by the commissioner, or those test procedures prescribed in this act.

Labeling.

Retesting by department.

Milk or cream haulers—license required.

Section 13. It shall be unlawful for any person to engage in hauling milk or cream upon any established milk or cream route, for any dairy products manufacturing plant, milk plant, or milk or cream buying or receiving station, without first procuring a license from the state department of agriculture. The fee for such license shall be five dollars ($5) annually.

Annual fee $5.

Issuance.

Section 14. All licenses issued by authority of this act or by compliance with the regulations promulgated by this act's authority shall be issued as a matter of privilege, rather than as a matter of right, and only after properly qualifying under the rules and regulations of the department. All licenses issued under the authority of the act shall be valid, unless sooner suspended or revoked for cause, from the date of issue through December 31 of the year in which issued. All licenses shall be renewed by the first January 31 following the date of license expiration upon payment of the required fee. All licenses issued under this act shall be posted in conspicuous view at the place of business. Licenses issued

Validity.

Renewal.

Posting.

Nontransferable.

HeinOnline -- 1971 vol. II 1503 1971

Penalties.

under this act shall not be transferrable from place to place nor person to person. Penalties of five dollars ($5) per month or fraction thereof from January 31 of each year may be imposed by the commissioner for any person's failure to apply for any license provided for under this act. Regulatory action may not be taken against any dairyman licensed under this act, until two (2) years following the promulgation and adoption of the regulations as authorized under this act.

Test operators—examination and license required.

Section 15. No person shall operate any butterfat, protein, solids, or other component content test where milk or cream is bought and paid for on the basis of such values, without first passing an appropriate examination and obtaining the license required by the department. Any person desiring to operate such tests shall apply to the state department of agriculture for permission to take the butterfat, protein, solids, or other component content test operator's examination. Such examination shall be given to the applicant by the chief of the dairy and egg division of the department, or his agent. Upon passing the examination to the satisfaction of the commissioner, the applicant shall be issued a license authorizing him to conduct such tests in Montana. A fee of ten dollars ($10) shall be paid for each such license and for each renewal.

Annual fee $10.

Revocation, suspension or denial.

Milk and cream tester's licenses may be revoked, suspended or denied where testing is not conducted in accordance with official test procedures, or with department regulations, or if the tester regularly or habitually reports results below the actual values of the butterfat, protein, solids, or other compound component values, the licensee shall be subject to the penalties provided in this act. Any person who shall alter the results of any official test shall be subject to the penalties prescribed under the authority of this act.

Penalties.

Authority of department to test dairy products.

Section 16. The department shall have the authority to sample, test, and/or retest samples of milk or cream or their products, at any dairy, at the premises of any supplier of milk or cream for manufacturing purposes, or at any manufactured dairy products plant, milk plant, or cream buying or receiving station.

Grading required.

Section 17. All milk or cream purchased for use in milk plants or to be used in any manufactured dairy

HeinOnline -- 1971 vol. II 1504 1971

product in Montana shall be graded, by licensed graders, weighers and samplers, and if such milk or cream is found to be: musty, adulterated, rancid, dirty, with marked undesirable odors or flavors, or to contain foreign objects, fragments, or substances or excessive bacteria, it shall be unlawful to sell, purchase, or use such milk or cream for any food purpose whatsoever. The milk or cream grader or commissioner shall have the authority and it shall be his duty to condemn such milk or cream, and he may add to such milk or cream a non-toxic coloring substance or rennet and return it to or leave it with the producer with an explanation of the cause for rejection.

Findings.

Condemnation.

Section 18. All persons receiving or purchasing milk or cream, and all persons collecting milk or cream on milk or cream routes, shall provide a licensed grader, weigher, and sampler, at each such receiving station or for each such route.

Licensed graders provided.

It shall be unlawful for any person to grade, weigh, or sample any milk or cream to be used for processing into grade A milk and cream or used in manufactured dairy products without first procuring a license as a grader, weigher, and sampler from the department and passing such examination as may be required by the commissioner.

License required.

Any person who knowingly employs an unlicensed person as a grader, weigher, and sampler, or one whose license as such has been revoked or suspended, shall be subject to revocation of his own license to operate a manufactured dairy products plant, or cream or milk receiving station or the penalties prescribed in this act.

Penalties for employing unlicensed personnel.

Section 19. The commissioner is hereby empowered and authorized to deny renewal of, suspend, or revoke, any license issued under the provisions of this act or its regulations, for cause or failure to comply with the provisions of this act or with any of the rules, regulations, testing procedures, or methods promulgated under the authority of this act, or when the commissioner has reason to believe that the licensee's products may be detrimental to or jeopardize the health and welfare of the public.

Powers of commissioner—suspension or revocation of license for cause.

Before revoking, denying renewal of or suspending a license, the commissioner shall give written notice of his

Notice.

HeinOnline -- 1971 vol. II 1505 1971

intention to revoke, deny or suspend the license, his reasons therefore, and shall give the licensee a time limit, of ten (10) days from the time of receiving the notice during which time the licensee may request a hearing to show cause why his license should not be revoked, denied or suspended. Such notice shall be sent by certified mail, or personal service may be made upon the licensee by a representative of the department. Failure of the licensee to request a hearing within the time allowed by the commissioner shall be considered his desire not to contest the commissioner's reasons for suspending, denying, or revoking of said license.

10 days to request hearing.

Service of notice.

Administrative hearing.

However, if the licensee does request a hearing, the commissioner shall then appoint a time and place for an administrative hearing within the county where the licensee is licensed.

Date for hearing.

The date established for the hearing must be not less than ten (10) days nor more than thirty (30) days after receipt of the licensee's request for such hearing. Such request for a hearing shall serve as a bar to prosecution until a decision from the commissioner becomes final.

Procedure.

The licensee shall at such hearing, have the opportunity to testify or to present evidence having a bearing on the denial, suspension, or revocation of his license, and, after hearing all the evidence, the commissioner shall make a determination. If a license is suspended, denied or revoked it shall not be reinstated until examination or inspection by the commissioner shows that the cause for suspension, denial or revocation has been eliminated or corrected.

Penalties for operation during suspension.

It shall be unlawful for any licensee to carry on the business or operations for which he was licensed, during the term of suspension or revocation, and if he does so, the licensee shall be subject to the penalties provided in the act.

Appeal to district court.

Any licensee who feels aggrieved at the decision of the commissioner in matters pertaining to suspension, denial, or revocation of a license may appeal, within thirty (30) days after the date of determination by the commissioner, to the district court of the county in which he was licensed, if in the state, or in the case of a business firm of any nature in the state to the county of its principal place of business.

HeinOnline -- 1971 vol. II 1506 1971

If a license is revoked, a new license must be obtained from the department but a new license may be issued only when the cause for revocation has been corrected. New license.

Section 20. It shall be unlawful for any person to operate a manufactured dairy products plant, concentrated, condensed or evaporated milk and/or cream plant, milk and cream buying station (creamery, dairy producing milk for manufacturing purposes, water ice manufacturing plant, cheese plant including cottage cheese, and cream cheese, sour cream, yogurt or frozen dessert manufacturing plant without first obtaining a license from the department. Plant operator's license required.

Any manufactured dairy products plant or dairy which undergoes a change of ownership shall be considered a new plant or dairy for re-licensing purposes; provided, that changes of ownership shall not be construed to include changes of stockholders. Change of ownership.

Section 21. The operator of any manufactured dairy products plant or grade A milk plant shall, upon request of the commissioner, furnish the department with the names and addresses of all producers from whom such plant obtains milk or cream. List of producers.

Section 22. All copies of inspections, written transcriptions, tests, samples of dairy products, analyses, correspondence, records of payment, trip and field reports, and photographic presentations relating to matters under this act may be used as evidence in any court of jurisdiction, at hearings or as testimony of the facts disclosed. Copies as evidence.

Section 23. Prior to the construction, or extensive remodeling or relocating of a dairy products manufacturing plant, detailed plans shall be submitted to the commissioner for review and approval before construction, remodeling or relocating begins. Such plans must show: size of rooms, type of building material, lighting and electrical system, ventilation, location of water supply, sewage disposal, materials to be used in floors, walls and ceilings, location and type of floor drains, plumbing, plumbing fixtures, equipment, and the makes, models, and serial numbers of any new or used equipment or machinery being added to or replacing existing equipment or machinery. Replacement equipment shall be of the NSF or 3A standard approved types, unless otherwise Construction plans for dairy products plan—submission to commissioner.

HeinOnline -- 1971 vol. II 1507 1971

approved by the department. Construction and materials must conform to regulations of the department and of building, electrical, and plumbing codes in effect in the area. Waste water, sewage and air pollutants shall be disposed by means approved by the Montana state department of health, and evidence shall be submitted that approval has been obtained from the state department of health.

Monthly report required.

Section 24. It shall be the duty of every person operating a manufactured dairy products plant in this state to render to the department once a month and not later than the tenth day of each month, a full report of the amounts of butter, cheese, frozen dessert, ice cream, low-fat ice cream, sherbet, water ices, ice milk, freezer made milk shakes, or other dairy products handled or manufactured during the preceding month as requested by the commissioner. Any person failing to render the report required by this section or failing to make said report by the date due shall be guilty of a misdemeanor and subject to the penalties provided in the act.

Penalties.

Required licenses and fees—manufactured dairy products act.

Section 25. Licenses and Schedule of Fees Required Under the Manufactured Dairy Products Act.

1. Milk and cream tester	$10.00
2. Creamery	25.00
3. Cultured and/or directly acidified dairy products including one or all of the following: cheese, cottage cheese, cream cheese, cheese curd, sour cream, buttermilk, yogurt and similar dairy products and their low-fat counterparts	50.00
4. Cream station, except stations owned and operated by a manufactured dairy products plant	5.00
5. Milk and cream haulers	5.00
6. Graders, weighers, and samplers	5.00
7. Wholesale butter and cheese, provided that such license shall not be required when a person sells only butter and/or cheese of his own manufacture	20.00
8. Frozen dessert manufacturing	50.00

"Frozen dessert" defined.

For licensing purposes the term "frozen dessert" shall

HeinOnline -- 1971 vol. II 1508 1971

mean and include one or all of the following but not limited to the following:

a. Ice cream and/or its mix.

b. French ice cream, French custard ice cream, and their low-fat counterparts and/or their mixes.

c. Sherbets of all kinds, and/or their mixes.

d. Animal and/or vegetable fat frozen desserts, and/or their mixes.

e. Frozen confections and/or their mixes.

f. Water ices and/or their mixes.

g. Frozen dessert sandwiches, bars, cones and similar novelties.

h. Frozen desserts made of dairy and/or non-dairy origins, and similar products made in the semblance or imitation of frozen desserts and/or their mixes provided, that a frozen dessert manufacturing license shall not be required of a cafe, restaurant or drive-in type operation whose main business is food purveying as licensed by the state department of health and provided further that no license shall be required to manufacture non-dairy frozen desserts when only such desserts are manufactured.

i. Ice milk and/or its mix.

9. Dairies 5.00
provided, that any person licensed to produce and sell grade A milk and/or cream shall be exempt from this licensing.

Collective licensing.

Creameries, cheese factories, cream stations, frozen dessert factories and wholesale butter and cheese dealers shall be licensed as individual operations but collectively under a single manufactured dairy products license; provided, however, that when a person who wholesales butter and cheese operates, separately as a business, distinct, by himself with or without other persons, as an independent wholesale dealer, then such license to wholesale butter and/or cheese shall be issued separately from the cheese factory or creamery license to that person who operates the wholesale butter and cheese business.

Exception.

Milk and cream testers, graders, weighers and samplers, haulers, and persons operating dairies shall be licensed

HeinOnline -- 1971 vol. II 1509 1971

separately and individually whether employed by a manufactured dairy products plant or by themselves.

Deposit of fees.

All license fees shall be deposited to the credit of the general fund.

Commissioner may request removal or destruction of adulterated product.

Section 26. When epidemiological evidence, or the likelihood exists that a dairy or manufactured dairy products plant is producing, manufacturing, storing, handling, or offering for sale, any milk or manufactured dairy product which is adulterated, or which may be detrimental to the health or safety of the consumer, the commissioner may request the state department of health to remove such product from the market and/or to be held, disposed of, destroyed, or treated in such a manner so as to no longer constitute a potential health hazard.

Penalties for violations.

It shall be unlawful for any person, in any manner, to violate any order requiring removal from the market, holding, disposing of, destroying, or treating such products. Violation shall be punishable as a misdemeanor, and each such violation shall be subject to a fine of not less than twenty-five dollars ($25) nor more than two hundred fifty dollars ($250) or by imprisonment in the county jail for not more than thirty (30) days, or to both fine and imprisonment.

Right of entry.

Section 27. The commissioner or authorized agent shall have the right of entry during normal business hours, including Sundays and holidays, into any dairy supplying milk or cream for manufacturing purposes, manufactured dairy products plant, milk plant or cream receiving station, transportation facility, or any premises where dairy products, dairy manufactured products, or their substitutes or imitations are produced, manufactured, sold or offered for sale, stored, or while in transit; for the purpose of inspection such dairy or plant, its facilities, products, or to obtain samples for testing or analysis. It shall be unlawful for any person to interfere with or obstruct the commissioner or his authorized agent in the performance of his duty to enter, inspect, and/or obtain samples.

Interference unlawful.

Penalties for violations.

Violations of the provisions of this section shall constitute a misdemeanor and shall subject the offender to a fine of not less than fifty dollars ($50) and not more than five hundred dollars ($500) or to imprisonment in

HeinOnline -- 1971 vol. II 1510 1971

the county jail for not less than one (1) nor more than thirty (30) days or to both such fine and imprisonment.

Cooperative working agreements.

Section 28. The commissioner is specifically authorized to enter into cooperative working agreements with state, county, city, and town departments and their political or departmental subdivisions to facilitate carrying out the functions or duties of his office.

Other agencies.

This section of the act is expressly intended to include authority for the commissioner to establish cooperative working agreements with any health departments, sanitarians, or health officers, when special investigations, sampling or analyses are deemed advisable.

Health agencies.

Duty to make records available.

Section 29. All persons who, including cooperatives which, buy or sell milk or cream on the basis of butterfat, protein, solids, or other component content of milk or cream, shall make available to the commissioner upon his request, all records showing the amounts of milk or cream sold or purchased, the price per pound, the amount paid, the sampling period for which the amount was paid, and the name and address of the person to whom payment was made or from whom payment was received.

Each manufactured dairy product plant shall, upon request by the commissioner, make available to him all production records of all dairy manufactured products covered by this act and of all manufactured products made in semblance or imitation thereof.

Failure to label cheese unlawful.

Section 30. It shall be unlawful, and punishable as a misdemeanor, for any person to offer for sale, expose for sale, or sell any cheese in any container or wrapper unless such container or wrapper bears a legible label or inscription indicating the net weight, type or style of cheese, and the manufacturer's or distributor's name and address or plant number.

Dairy products deemed perishable —temperature controls.

All manufactured dairy products which are handled, displayed, transported, exposed for sale, offered for sale, or sold in Montana, shall be considered perishable and potentially hazardous, and shall be kept at safe temperature or below; provided, however that nothing in this requirement shall be construed as prohibiting higher temperatures which are necessary for curing, ripening or aging of certain cheeses and cultured products, and provided, further, that this section of the act does not apply

HeinOnline -- 1971 vol. II 1511 1971

to manufactured dairy products packaged in hermetically sealed containers or sterile manufactured dairy products which do not require refrigeration for their safe keeping.

Imported dairy products—same sanitary and identity requirements.

Section 31. All manufactured dairy products, or imitations or products made in semblance thereof, covered by this act, shipped into Montana for sale, display or use must be produced under the same or equivalent sanitary regulations and requirements as govern the production of such products in Montana.

Sale prohibited.

Unless the sanitary conditions of manufacture and standards of identity conform to the same or equivalent standards required by the laws or regulations of this state, such products shall not be sold, given away, displayed, transported into, or used in Montana.

Packaging.

Section 32. All manufactured dairy products sold, offered, displayed or exposed for sale, at wholesale or retail in Montana, wherever manufactured, must be packaged in a protective wrapper or package and must have the manufacturer's and wholesaler's or retailers names clearly printed in a conspicuous place on the package, or wrapper, in which it is sold. In case a manufactured dairy product is packaged in a plant other than that of the plant which name appears on the package or wrapper, the package or wrapper shall also show the name of the plant at which such product was packaged or wrapped.

Registered codes or numbers.

Provided, however, that nothing in this section of the act shall be construed as preventing the use of codes or numbers which designate the packaged or wrapping plant, when such codes or numbers are registered in the office of the dairy and egg division of the department.

Sale or use of impure milk and cream unlawful.

Section 33. It shall be unlawful for any person to sell, manufacture or exchange, display or offer or expose for sale or exchange, as milk or cream, any impure, colored, adulterated, or unwholesome milk or cream or any substance in the semblance or imitation of milk or cream, nor shall any such impure, colored, adulterated, or unwholesome milk or cream be used in the manufacture of any article of food for human beings.

Sale or use of other fats and oils unlawful.

Section 34. It shall be unlawful for any person to manufacture, mix, compound with, or add to milk, cream, or any manufactured dairy products, or to transport into Montana any manufactured dairy product containing

HeinOnline -- 1971 vol. II 1512 1971

foreign animal fats or foreign animal or vegetable oils or products containing non-approved ingredients with the intent to sell the same as milk, cream or manufactured dairy products except as allowed under the law and/or regulations of Montana, nor shall any person possess, solicit orders for display, or sell any such article, substance, or compound as or for milk, cream or manufactured dairy products.

Filled dairy products lead to fraud.

Section 35. Filled dairy products resemble genuine dairy products so closely that they lend themselves readily to substitution for and confusion with such dairy products and in many cases cannot be distinguished from genuine dairy products by the ordinary consumer or ordinary laboratory procedures. The manufacture, sale, exchange, purveying, transportation, possession, or offering for sale or exchange or purveyance of filled dairy products lends itself to substitution, confusion, deception, and fraud, and one which if permitted to exist tends to interfere with the orderly and fair marketing of foods essential to the well-being of the people of this state. It is hereby declared to be the purpose of this act to correct, prevent and eliminate the condition above referred to; to protect the public from confusion, fraud and deception; to prohibit practices inimical to the general welfare; and to promote the orderly and fair marketing of essential foods.

Purpose of act to protect public.

Use of filled dairy products unlawful in intrastate commerce.

(1) Therefore, it shall be unlawful in intrastate commerce for any person to manufacture, sell, exchange, display, purvey, transport or possess any filled dairy product or to offer or expose for sale or exchange or to be purveyed any such product.

Bakery use of filled dairy products as ingredients unlawful.

(2) It shall be unlawful for any person owning or operating a bakery, confectionery shop, factory or other place where food products are prepared or manufactured for sale, exchange or purveyance to the public in intrastate commerce to utilize any filled dairy product as an ingredient in any food product so manufactured or prepared.

Sale of food products containing filled dairy products unlawful.

(3) It shall be unlawful in intrastate commerce for any person knowingly to sell, exchange, purvey, transport or possess any food product in which any filled dairy product is an ingredient, provided, however, that the term "filled dairy product" shall not be construed to mean or include:

Exemptions.

HeinOnline -- 1971 vol. II 1513 1971

(a) Oleomargarine.

(b) Any distinctive proprietary food compound not readily mistaken for a dairy product where such compound is customarily used on the order of a physician and is prepared and designed for medicinal or special dietary use and prominently so labeled;

(c) Any frozen dessert containing animal fat (other than butter fat) or vegetable fat when the container is properly labeled;

(d) Any dairy product flavored with chocolate or cocoa where the fats or oils other than milk fat contained in such product do not exceed the amount of cacao fat naturally present in the chocolate or cocoa used; or

(e) Any dairy product in which the vitamin content has been increased and food oil utilized as a carrier of such vitamins provided the quantity of such food oil does not exceed one one-hundredths (1/100) of one percent (1%) of the weight of the finished dairy product.

Unlawful to sell new nonconforming dairy products.

Section 36. It shall be unlawful for any person to manufacture, display, transport, sell or offer for sale in Montana as a manufactured dairy product any substance or product which does not conform to the standards of identity for such product as defined in the Code of Federal Regulations, or to the standard of identity established by the department.

Unlawful to adulterate milk or cream.

Section 37. It shall be unlawful for any person to adulterate milk or cream produced or sold for manufacturing purposes, or for any manufactured dairy product to contain an adulterant. For purposes of this act, the presence of any anti-microbial substance, pesticide residuals, unapproved coloring, food additives, or foreign substances added directly to or assimilated into such products which are not explicitly allowed in the Code of Federal Regulations except for the addition of adulterants for rejection purposes, shall be deemed adulterated. Violations of this section shall be misdemeanors, and shall be punishable by fine or imprisonment, or both, as provided in the act.

Penalties for violation.

False labeling of oleomargarine unlawful.

Section 38. It shall be unlawful for any person in connection with the sale, advertisements, or offering for sale of oleomargarine or any other substance intended to be used as a substitute for butter, and which substance

HeinOnline -- 1971 vol. II 1514 1971

or oleomargarine is made wholly or in part from animal or vegetable fats, or oils, other than the fat of pure milk or cream, to use the words, "dairy", "creamery", "butter", "cream", or any picture of a cow or cows or the names of any breeds of cattle, sound or graphic, sign, symbol, or device which could tend to mislead the consumer or user as to the contents of oleomargarine. Violations of the provisions of this section shall constitute a misdemeanor, and shall subject the offender, upon conviction, to a fine of not less than fifty dollars ($50) and not more than five hundred dollars ($500) or to imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months, or to both such fine and imprisonment.

Penalties for violations.

Section 39. All milk and cream used in the manufacture of any dairy product, or products made in semblance of imitations of dairy products, sold, offered for sale, purveyed, stored, displayed or transported in Montana, shall be pasteurized; provided, however, that cheese held, stored, or aged, for at least sixty (60) days at not less than 35 degrees F., shall not be required to be made from pasteurized milk or cream, but shall be required to be labeled "made from raw" or "unpasteurized milk" or "unpasteurized cream", as the case may be. Other cultured raw or unpasteurized dairy products which can be made safe by aging shall also be required to be similarily aged and labeled as required above.

Pasteurization required.

Exemptions.

Labeling.

Section 40. The commissioner shall have the authority to prescribe or establish regulations which he deems necessary to assure proper control and use of all equipment or apparatus used in the process of pasteurization, and to require the operation of such devices and apparatus as are needed to accurately record, and indicate, temperatures to which and the length of time for which, the pasteurized product has been heated including those periods and temperatures when such equipment is cleaned and sanitized by C.I.P. method. Any person using pasteurizing equipment within the state of Montana shall properly record and have available to the commissioner for the preceding two months, all records pertaining to the pasteurization of any product, and said records shall, at all times, be open to the inspection of the department, the state department of health, and all other state, county, and municipal officers charged with the enforcement of

Regulations—pasteurizing equipment.

Duty to keep records of pasteurization.

HeinOnline -- 1971 vol. II 1515 1971

laws and ordinances respecting dairy products or the public health.

Sealing of equipment.

All pasteurizing equipment which records temperatures or controls the time of holding shall be timed, set and sealed by the commissioner. Such seals shall not be removed or broken without first notifying the dairy and egg division.

False designation of pasteurization unlawful.

Section 41. It shall be unlawful for any person to sell, offer for sale or exchange, or to have in possession for such purpose, any milk, cream, or manufactured dairy product, in any container or package, marked, labeled, or in any way designating the contents thereof as "pasteurized", unless the same has been treated by an approved process of pasteurization, as is required by the commissioner.

Other authority not repealed or abrogated.

Section 42. The licenses required under this act apply only to those licenses issued by the Montana state department of agriculture. Nothing in this act shall be deemed to repeal or abrogate the authority of or the issuance of licenses by the state livestock sanitary board or the state department of health.

Provided, however, that requirements for a license from the state department of agriculture shall not apply where such license duplicates one issued by the state livestock sanitary board.

Monopoly statutes made applicable.

Section 43. The provisions of state statute sections 94-1107 to 94-1114 inclusive, relating to monopoly in the purchase or sale of products in general use, are hereby expressly made applicable to all persons engaged in the business of buying milk, cream, or butterfat for the purpose of manufacture, and those who shall violate any of the provisions of said sections. All milk, cream, butterfat, manufactured dairy products, or products made in the semblance or imitation of manufactured dairy products, are hereby declared to be commodities and products in general use within the meaning of the sections aforesaid.

Conformance to standards required.

Section 44. All milk and cream used in manufactured dairy products, and the manufactured dairy products, shall conform to the standards of purity, quality, and wholesomeness as provided in this act or in the regulations promulgated under the authority of this act.

HeinOnline -- 1971 vol. II 1516 1971

Duty to post price schedules.

Section 45. All persons who buy milk or cream for manufacturing purposes shall post the current prices for butterfat, or other component content, of milk or cream, in a conspicuous place in the factory or place of business. Such price schedule may be based upon butterfat, protein, solids, or other components of milk or cream and shall indicate upon which of such basis payment is made.

Wholesaler's license required.

Section 46. It shall be unlawful for any person to sell, exchange, or offer for sale or exchange, at wholesale, or to have in possession with the intent to sell, exchange, or offer for sale at wholesale, any butter or cheese without first procuring a license from the department for that purpose. Where such person conducts such sale or exchange at more than one place of business, a separate license shall be required for each such place of business and a separate fee shall be paid for each license.

Exemption.

Provided, however, that any manufactured dairy products plant which is licensed by the department to manufacture butter or cheese shall not be required to obtain this license.

Regulations—butter or cheese wholesalers and jobbers.

All wholesalers or jobbers handling butter or cheese shall conduct their business under the same regulations of cleanliness, sanitation, and refrigeration, as are prescribed for manufactured dairy products plants.

Requirements—containers and equipment.

Section 47. All containers and equipment used in the manufacture, storage, holding display and transportation of any manufactured dairy product shall be non-toxic, easily cleanable and free from dents, cracks, crevices, rust and any other condition which would prevent cleaning and sanitizing.

Frozen desserts imitating ice cream—labeling.

Section 48. Any frozen dessert made in the semblance of or in imitation of ice cream in this act, which contains any amount of animal fat (other than milk fat), or vegetable fat or oil, (other than any such fat or oil which is naturally present in any flavoring ingredient), shall be labeled as an animal fat product, or vegetable fat product, or a combination of both, as the case may be. Such animal fat or vegetable fat products shall be manufactured from a pasteurized mix, which has been processed in a licensed manufacturing dairy product plant. All persons manufacturing, offering for sale or exchange, or selling such animal fat or vegetable fat frozen desserts shall be subject to the sanitary, reporting, and licensing

Pasteurization of mix.

Regulations—frozen dessert operators.

HeinOnline -- 1971 vol. II 1517 1971

regulations of this act and of the regulations promulgated under the authority of this act.

False representations prohibited.

No representation shall be made by statement, word, grade designation, design, symbol, device, or in any other manner, on any container, package, or wrapper, or on any advertising media that such animal fat or vegetable fat product, or combination thereof, is ice cream, sherbet or any of their low-fat counterparts or derivatives, or any other products which are prohibited from containing animal or vegetable fats.

Required labeling.

The container, package, or wrapper, containing such animal fat or vegetable fat frozen dessert, shall be clearly and plainly marked, labeled, or printed, on the outside, in boldfaced letters, with the words, "Animal Fat Product", "Vegetable Fat Product", "Animal-Vegetable Fat Products", or "Vegetable-Animal Fat Product" as the case may be, and shall bear thereon the common or usual name of each of the ingredients therein, including the fats or oils; except that spices, flavorings, or colorings may be designated as such without naming each.

Labeling shall conform to food, drug and cosmetic act.

Section 49. Labeling on all manufactured dairy products shall conform to all requirements of the Food, Drug and Cosmetic Act, and to such other requirements as may be adopted by the department or the state department of health.

Penalties for violations.

Section 50. Any person who shall violate any of the provisions of this act, or who shall fail to comply with the regulations promulgated under the authority of this act or promulgated by the commissioner, or who shall fail or neglect to obey any lawful order of the commissioner or department, made pursuant to this act, shall upon conviction, be guilty of a misdemeanor.

Unless a specific penalty is otherwise provided in the act or regulations for such offense, the offender shall be subject to a fine of not less than twenty-five dollars ($25) and not more than five hundred dollars ($500) or by imprisonment in the county jail for not to exceed six (6) months, or to both such fine and imprisonment.

Repealing clause.

Section 51. Sections 3-2401, 3-2402, 3-2403, 3-2405, 3-2406, 3-2407, 3-2408, 3-2409, 3-2410, 3-2411, 3-2412, 3-2413, 3-2414, 3-2415, 3-2416, 3-2417, 3-2418, 3-2419, 3-2420, 3-2421, 3-2422, 3-2423, 3-2424, 3-2425, 3-2426, 3-2427, 3-

HeinOnline -- 1971 vol. II 1518 1971

2428, 3-2429, 3-2430, 3-2431, 3-2434, 3-2436, 3-2437, 3-2438, 3-2439, 3-2440, 3-2441, 3-2442, 3-2443, 3-2444, 3-2447, 3-2448, 3-2449, 3-2450, 3-2451, 3-2452, 3-2453, 3-2454, 3-2455, 3-2456, 3-2457, 3-2458, 3-2459, 3-2460, 3-2461, 3-2462, 3-2463, 3-2464, 3-2465, 3-2466, 3-2467, 3-2468, 3-2469, 3-2470, 3-2471, 3-2472, 3-2476, 3-2477, 3-2478, 3-2479, 3-2480, 3-2481, 3-2482, 3-2483, 3-2484, 3-2485, 3-2486, 3-2487 are repealed.

Section 52. This act is effective on January 1, 1972. Effective January 1, 1972.

Approved March 18, 1971

CHAPTER NO. 414

An Act to Provide for Licensing of Livestock Dealers and Establishing the Procedure, Rules and Regulations Therefore.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** When used in this act: Definitions.

(a) the term "livestock commission" or "commission" means the livestock commission of the state of Montana; "Livestock commission" or "commission."

(b) the term "person" means an individual, partnership, corporation, association, or other form of business enterprise; "Person."

(c) the term "livestock" means cattle, sheep, swine, horses, mules, and goats; "Livestock."

(d) the term "livestock dealer" means any person who buys livestock (1) for his own account for purposes of resale or slaughter; or (2) for the account of others; or (3) for or on behalf of any dealer; provided, the term "livestock dealer" shall not include a farmer or rancher who buys or sells livestock in the ordinary course of their farming or ranching operation. "Livestock dealer."

(e) the term "meat packer" shall be considered livestock dealer in this act. "Meat packer."

Section 2. **Prohibited conduct.** It shall be unlawful for any person to: Unlawful acts—livestock dealers.

(a) carry on the business of a livestock dealer without a valid and effective license issued by the livestock commission under the provisions of section 3 of this act; License required.

HeinOnline -- 1971 vol. II 1519 1971

Surety bond.

(b) carry on the business of a livestock dealer without filing and maintaining a valid and effective surety bond in conformity with section 4 of this act;

Financial condition.

(c) carry on the business of a livestock dealer while his current liabilities exceed his current assets;

False statements.

(d) wilfully make ar cause to make any false entry or statement of fact in any application, financial statement, or report filed with the livestock commission under this act.

Annual application for license.

Section 3. **Licenses.** (a) Application; fees; renewal. Any person desiring to be licensed as a livestock dealer shall file annually with the livestock commission on or before July 1st, an application for a license to transact such business on a form prescribed by the commission. The application shall contain the following information:

Required information.

(1) the nature of the business to be conducted by the applicant;

(2) the name or names of persons applying for license, together with their addresses and permanent residence;

(3) the full name of each member thereof, if the applicant is a firm, association or partnership or the names of the officers thereof if the applicant is a corporation;

(4) the post office and principal place of business of the applicant;

(5) if the applicant is a foreign corporation its principal place of business, without the state, the name of the state in which it is incorporated, and that it has complied with the laws of this state relating to foreign corporations and its right to do business in this state;

(6) a copy of the financial statement showing current assets and current liabilities, as submitted to the bonding company to secure a bond under the terms of this act.

With the filing of an application for license, the applicant shall submit to the livestock commission the following applicable fee: as a livestock dealer — fee: twenty-five dollars ($25).

Fee $25.

Issuance.

Whenever an applicant has paid the prescribed fee, the livestock commission, except as otherwise provided

HeinOnline -- 1971 vol. II 1520 1971

in this section, shall issue to such applicant a license which shall entitle the licensee to engage in the business specified in his application for a period of one (1) year, unless and until such license is suspended, revoked, or terminated in accordance with provisions of this act.

Posting.

Each license shall be posted in a conspicuous place in or at the place of business of the licensee for inspection by any person. Each licensee under this act shall be issued a pocket card containing the license number of the applicant and his authority as a livestock dealer and such card shall be carried and maintained and be displayed upon demand as authority as a licensed livestock dealer.

Pocket card.

Deposit of fees.

All fees provided for under this act shall be paid in to the state treasury, shall be placed by the state treasurer to the credit of the livestock commission fund.

Livestock commission may deny license for cause.

(b) Refusal of license. The livestock commission shall refuse to issue or renew a license if the applicant:

(1) has not filed a surety bond in the form and amount required under the provisions of section 4 of this act;

(2) has not satisfactorily demonstrated that his current assets exceed his current liabilities;

(3) has been found by the livestock commission to have failed to pay without reasonable cause obligations incurred in connection with livestock transactions;

(4) has violated the livestock laws of the state of Montana or the United States government;

(5) has practiced fraud in connection with the buying or receiving of animals or the selling, exchanging, or negotiating the sale of livestock or the weighing of the same;

(6) has failed to keep records of all purchases and sales or refused to grant inspection of said records by authorized agents of the livestock commission;

(7) has been suspended by the order of the secretary of agriculture of the United States department of agriculture under provisions of the Packers and Stockyards Act, 1921, as amended 7 U.S.C. 181, et seq., or

HeinOnline -- 1971 vol. II 1521 1971

(8) has failed to comply with a lawful order or orders of the livestock commission.

Suspension or revocation.

(c) Suspension and revocation of license. Whenever the livestock commission finds that any livestock dealer has violated the provisions of subsection (b), (c) or (d) of section 2, section 3 (b), or section 5 of this act, the livestock commission may, by order, suspend the license of such offender for a period not to exceed one year, except that if the violation is repeated, the livestock commission may, by order, permanently revoke the license of the offender.

Complaint.
Hearing.
Notice to licensee.
Procedure on hearing.
Appeal to district court.

Before any license issued under this chapter shall be suspended or revoked, the licensee shall be furnished with a copy of the complaint made against him and a hearing shall be had forthwith thereon before the livestock commission to determine whether such license should be suspended or revoked. The licensee shall be given notice of the time and place of such hearing and such notice shall be served by registered mail at the post office address listed in the application. Such hearing shall be held not less than ten (10) days nor more than fifteen (15) days after the mailing of such notice. At the time and place set for the hearing, the livestock commission shall take and receive evidence, under oath, with respect to the complaint, and upon such evidence received shall promptly dismiss the proceedings or revoke or suspend such license. On an adverse ruling, the licensee may take appeal to the district court in the county where his principal place of business is located. The district court shall consider only the evidence presented at the livestock commission hearing and such additional evidence as the court, in its discretion, may permit or deem necessary.

Termination—June 30.

(d) Termination. Any license issued under this act shall automatically terminate on the 30th day of June following the issuance of the same, unless the annual fee has been paid, and any such license shall automatically terminate upon termination of the surety bond covering the licensed operation.

Livestock dealer's bond required.

Section 4. **Bonds.** (a) Every livestock dealer applying for a license under this act shall file with the livestock commission and maintain a fully executed duplicate of a valid and effective bond in the form and

HeinOnline -- 1971 vol. II 1522 1971

amount set forth in this section, or if he is registered and bonded under the provisions of the Packers and Stockyards Act, 1921 (7 U.S.C. section 181 et seq.), shall file a statement in the form prescribed by the livestock commission evidencing that he is maintaining a valid and effective bond or its equivalent under said act.

Amount of bonds.

(b) The amount of each livestock dealer bond filed with the livestock commission shall be not less than five thousand dollars ($5,000) or such larger amount specified by published regulations of the livestock commission and shall contain the following conditions:

Conditions.

"If the said principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by said principal for his own account or for the accounts of others and if the said principal shall safely keep and properly disburse all funds, if any, which come into his hands for the purpose of paying for livestock purchased for the accounts of others."

Provision for suit.

(c) Each livestock dealer bond filed with the livestock commission shall contain provisions that (1) any person damaged by failure of the principal to comply with the condition clause of the bond may maintain suit to recover on the bond, and (2) at least thirty (30) days' notice in writing shall be given to the livestock commission by the party terminating the bond.

30 days notice of termination of bond.

Section 5. **Inspection of records.** Every livestock dealer at all times shall keep and maintain suitable records, to disclose all purchases and sales of livestock. Each livestock dealer shall, during all reasonable times, submit any authorized agent of the livestock commission to have access to and to copy any and all of such records relating to his business.

Duty to keep records.

Right of access.

Section 6. **Penalties.** Any livestock dealer who violates the provisions of section (a) or (d) of section 2 of this act, shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than six (6) months, or a fine of not more than five hundred dollars ($500) or both such imprisonment and fine.

Penalties for violations.

Section 7. **Powers and duties of livestock commission.** The livestock commission is hereby authorized to enforce the provisions of this act and to promulgate, in the

Livestock commission enforcement.

HeinOnline -- 1971 vol. II 1523 1971

manner provided by law, such rules and regulations as it deems necessary or desirable to carry out the provisions of this act.

Severability clause.

Section 8. **Separability.** If any provision of this act is declared unconstitutional or the applicability thereof to any person or circumstances held invalid, the constitutionality of the remainder of this act and the applicability thereof to other persons and circumstances shall not be affected thereby.

"Livestock dealer licensing act."

Section 9. **Citations.** This act may be cited as the "Livestock Dealer Licensing Act".

Approved March 18, 1971

CHAPTER NO. 415

An Act to Amend Section 87-106, R.C.M. 1947, Which Section is a Part of the Unemployment Compensation Law, by Deleting Chargeback Matters Provided for in Another Section; Providing for the Payment of Benefits to an Individual Taking Approved Training in Conformity with Public Law 91-373, Employment Security Amendments of 1970; Eliminating the Denial of Benefits by Reason of Cancellation of Wage Credits by Repealing Sections 87-106 (g) and (j) in Conformity with Public Law 91-373, Employment Security Amendments of 1970.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87-106, R.C.M. 1947, is amended to read as follows:

Individual disqualified for benefits.

"87-106. **Disqualification for benefits.** An individual shall be disqualified for benefits —

Leaving work without good cause.

(a) If he has left work without good cause attributable to the employment for a period of not less than two (2) nor more than five (5) weeks (in addition to and immediately following the waiting period), as determined by the commission according to the circumstances in each case.

Discharge.

(b) If he has been discharged:

Misconduct.

(1) For misconduct connected with his work, or affecting his employment, for a period of not less than two

HeinOnline -- 1971 vol. II 1524 1971

(2) nor more than nine (9) weeks (in addition to and immediately following the waiting period), as determined by the commission in each case according to the seriousness of the misconduct.

(2) For gross misconduct connected with his work or committed on the employer's premises, as determined by the commission, for a period of twelve (12) months. Gross misconduct.

(c) If he failed, without good cause, either to apply for available and suitable work when so directed by the employment office or the commission or to accept suitable work offered to him which he is physically able and mentally qualified to perform, or to return to his customary self-employment (if any) when so directed by the commission. Such disqualification shall continue for the week in which such failure occurred and for not less than two (2) nor more than five (5) weeks in addition to the waiting week which immediately follow such week as determined by the commission according to the circumstances in each case. Failure to apply for work.

(1) In determining whether or not any work is suitable for an individual, the commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and previous earnings, his length of unemployment and prospects for securing local work in his customary occupation and the distance of the available work from his residence. Determination by commission.

(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: Exempt conditions.

(a) If position offered is vacant due directly to a strike, lockout, or other labor dispute; Labor disputes.

(b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; Less favorable work conditions.

(c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization. Union requirements.

HeinOnline -- 1971 vol. II 1525 1971

Stoppage of work.

(d) For any week with respect to which the commission finds that his total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the commission that —

Participation in labor disputes.

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

Grade or class of workers.

(2) He does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute;

Separate businesses.

Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises; provided, further, that if the commission, upon investigation, shall find that such labor dispute is caused by the failure or refusal of any employer to conform to the provisions of any law of the state wherein the labor dispute occurs or of the United States pertaining to collective bargaining, hours, wages or other conditions of work, such labor dispute shall not render the workers ineligible for benefits.

Employers nonformance to law.

(e) For any week with respect to which he is receiving or has received payment in the form of —

Separation wages.

(1) Wages in lieu of notice or separation or termination allowance;

Disability compensation.

(2) Compensation for disability under the Workmen's Compensation Law or the Occupational Disease Law of this or any other state or under a similar law of the United States, *provided, however, that when an injured claimant has ceased to draw compensation benefits and shall have returned to the labor market, he shall then be entitled to receive unemployment compensation benefits under this title, if he shall be otherwise qualified. Provided further, that compensation which is received as a*

Return to labor market.

Permanent partial disability.

HeinOnline -- 1971 vol. II 1526 1971

payment for a permanent partial disability shall not be computed to be spread over a period of weeks in advance so as to bar the recipient from receiving unemployment compensation benefits under this title, provided the recipient has returned to the labor market and is otherwise qualified;

(3) Benefits under the Railroad Unemployment Insurance Act or any state unemployment compensation act or similar laws of any state or of the United States. This disqualification does not apply to any week with respect to which an individual is receiving or has received benefits under an unemployment compensation law of another state or of the United States, if such benefits are paid pursuant to section 87-129. Other benefits.

Receipt of any wages, compensation or benefits as set forth in subsection (1), (2), or (3) above, after payment of unemployment benefits, and with respect to the same week for which unemployment benefits were received, will thereupon require such individual to repay such unemployment benefits and the commission may collect such unemployment benefits in the same manner as provided for collection of benefits under section 87-145 (d). Repayment.

(f) During the school year (within the autumn, winter and spring seasons of the year) or the vacation periods within such school year or during any prescribed school term if claimant is a student regularly attending an established educational institution. *Not withstanding any other provisions in this subsection, no otherwise eligible individuals shall be denied benefits for any week because he is in training approved by the commission, nor shall such individual be denied benefits with respect to any week in which he is in training approved by the commission by reason of the application of provisions in subsection (c) of this section or the application of provisions in section 87-105 (c).* Students—school year. Trainees.

(g) Where retired and entitled to receive retirement compensation in excess of one hundred dollars ($100.00) per calendar month paid in whole or in part from funds furnished by an employing unit, such disqualification to be applied as follows: All wages earned by such individual in the employment from which he has been retired shall not be considered or included in determining his wage credits or weekly benefit amount under section 87-103 and 87-105. Retirement compensation.

HeinOnline -- 1971 vol. II 1527 1971

Exception—social security.

This disqualification does not extend to the receipt of benefits under the Federal Social Security Act, as amended,

Pregnancy.

(h) For any week wherein claimant leaves her most recent employment during pregnancy, and due to such pregnancy, and such disqualifications shall continue through the period of pregnancy unless claimant presents

Evidence of physical ability to work.

evidence of her physical ability to work at such employment. At any time after the seventh month of pregnancy a claimant, to establish eligibility, must present evidence of physical ability to work at such employment. Further, at any time during the first two (2) months following childbirth, a claimant, to establish eligibility, must present evidence of her physical ability to work at such employment. In any of the cases set forth hereinbefore, such

Physician's certificate.

evidence of eligibility must be in the form of a certificate of a duly licensed physician that such claimant is physically able to work at her most recent employment, and such evidence must be presented as often as requested by the commission.

Approved March 18, 1971

CHAPTER NO. 416

An Act to Amend Sections 74-602 and 74-608, R.C.M. 1947, Relating to Retail Installment Sales.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 74-602, R.C.M. 1947, is amended to read as follows:

Definitions.

"74-602. **Definitions.** Unless otherwise clearly indicated by the context, the following words when used in this act, for the purposes of this act, shall have the meanings respectively ascribed to them in this section:

"Goods."

(a) "Goods" means all chattels personal, including motor vehicles and merchandise certificates or coupons exchangeable for chattels personal, but not including money or things in action. The term includes goods which, at the time of the sale or subsequently, are to be so affixed to realty as to become a part thereof whether or not severable therefrom.

HeinOnline -- 1971 vol. II 1528 1971

(b) "Services" means work, labor and services furnished in the delivery, installation, servicing, repair or improvement of goods. "Services."

(c) "Motor vehicle" means any new or used automobile, mobile home, motorcycle, truck, trailer, semitrailer, truck tractor, and all vehicles with any power, other than muscular power, primarily designed or used to transport persons or property on a public highway, excepting however, any vehicle which runs only on rails or tracks or in the air. "Motor vehicle."

(d) "Retail buyer" or "buyer" means a person who buys goods or obtains services from a retail seller in a retail installment transaction and not for the purpose of resale. "Retail buyer" or "buyer."

(e) "Retail seller" or "seller" means a person who sells goods or furnishes services to a retail buyer *in* a *written* retail installment contract *or written retail installment transaction.* "Retail seller" or "seller."

(f) "Retail installment transaction" means a *written* contract to sell or furnish, or the sale or furnishing of goods or services, by a retail seller to a retail buyer *pursuant to a retail charge account agreement or* under a retail installment contract. "Retail installment transaction."

(g) "Retail charge account agreement" means an instrument in writing prescribing the terms of retail installment transactions which may be made thereunder from time to time pursuant to which a retail seller gives to a retail buyer the privilege of using a credit card issued by the retail seller or any other person or other credit confirmation or identification for the purpose of purchasing goods or services from the retail seller, from the retail seller and any other person, or from a person licensed or franchised by the retail seller, and under the terms of which a finance charge, as defined in this section may be computed in relation to the buyer's balance in the account from time to time. "Retail charge account agreement."

(h) "Retail installment contract" or "contract" means an agreement evidencing a retail installment transaction entered into in this state pursuant to which a buyer promises to pay in one or more deferred installments the time sale price of goods and/or services. The term includes a chattel mortgage, conditional sales contract and a "Retail installment contract" or "contract."

HeinOnline -- 1971 vol. II 1529 1971

contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or for no further or a merely nominal consideration has the option of becoming, the owner of the goods upon full compliance with the provisions of the contract.

"Cash sale price." *(i)* "Cash sale price" means the price stated in a retail installment contract *or in a sales slip or other memorandum furnished by a retail seller to a retail buyer under or in connection with a retail charge account agreement* for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of the retail installment *transaction,* if such sale had been a sale for cash. The cash sale price may include any taxes, registration, certificate of title, license and official fees, and cash sale prices for services, if any, and for accessories and their installation and for delivery, servicing, repairing or improving the goods.

"Official fees." *(j)* "Official fees" means the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction.

"Principal balance." *(k)* "Principal balance" means the cash sale price of the goods or services which are the subject matter of a retail installment transaction plus the amounts, if any, included in the sale, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits and official fees, minus the amount of the buyer's down payment in money or goods.

"Finance charge." *(l)* "Finance charge" means the amount, as limited by section 74-608, in addition to the principal balance, agreed upon between the buyer and the seller, to be paid by the buyer for the privilege of purchasing goods or services to be paid for by the buyer in one or more deferred installments.

"Time sale price." *(m)* "Time sale price" means the total of the cash sale price of the goods or services and the amount, if any, included for insurance and other benefits if a separate identified charge is made therefor and the amounts of the official fees and the finance charge.

HeinOnline -- 1971 vol. II 1530 1971

(n) "Sales finance company" means a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more sellers. The term includes but is not limited to a bank, trust company, investment company, Morris Plan company or savings and loan association, if so engaged. The term shall not include a person who makes only isolated purchases of retail installment contracts, which purchases are not being made in the course of repeated and successive purchases of retail installment contracts from the same seller. "Sales finance company."

(o) "Holder" means the retail seller of the goods or services under the retail installment contract or retail charge account agreement, or a person who establishes and administers retail charge account agreements with retail buyers, the assignee, if the retail installment contract or the retail charge account agreement or the balance in the account under either has been sold or otherwise transferred, or any other person entitled to the rights of the retail seller under any retail installment contract or any retail charge account agreement. "Holder."

(p) "Person" means an individual, partnership, corporation, association, and any other group however organized. "Person."

(q) "Superintendent" means the state superintendent of banks of the state of Montana. "Superintendent."

(r) Words in the singular include the plural, the masculine includes the feminine and the neuter, and vice versa. Word inclusions.

(s) This act shall have no application to the lending of money by banks or other lending institutions and securing loans by chattel mortgages of goods in the ordinary course of lending by such banks or other lending institutions *except this act pertains to the extension of credit by such banks or other lending institutions pursuant to retail installment contracts or credit cards issued by such banks or other lending institutions."* Exemptions. Exception.

Section 2. Section 74-608, R.C.M., 1947, is amended to read as follows: Amending clause.

"74-608. **Finance charge limitation.** (a) Notwithstanding the provisions of any other law, the finance charge included in a retail installment *contract* shall not exceed the following schedule: Schedule of maximum finance charges—retail installment contracts.

HeinOnline -- 1971 vol. II 1531 1971

Motor vehicles.

(1) As to motor vehicles:

Class 1. Any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made—seven dollars ($7) per one hundred dollars ($100) per year.

Class 2. Any new motor vehicle not in class 1 and any used motor vehicle designated by the manufacturer by a year model of the same or not more than two (2) years prior to the year in which the sale is made—nine dollars ($9) per one hundred dollars ($100) per year.

Class 3. Any used motor vehicle not in class 2 and designated by the manufacturer by a year model more than two (2) years prior to the year in which the sale is made—eleven dollars ($11) per one hundred dollars ($100) per year.

Other services and goods.

(2) As to services and goods other than motor vehicles: (i) On so much of the principal balance as does not exceed three hundred dollars ($300), eleven dollars ($11), per one hundred dollars ($100) per year; (ii) if the principal balance exceeds three hundred dollars ($300), but is less than one thousand dollars ($1,000), nine dollars ($9) per one hundred dollars ($100) per year on that portion over three hundred dollars ($300); (iii) if the principal balance exceeds one thousand dollars ($1,000), seven dollars ($7) per one hundred dollars ($100) per year on that portion over one thousand dollars ($1,000).

Computation on principal balance.

(b) Such finance charge shall be computed on the principal balance as determined under section 7(f) [74-607(f)] of this act on contracts payable in successive monthly payments substantially equal in amount from the date of the contract until the maturity of the final installment, notwithstanding that the total time balance thereof is required to be paid in installments. A minimum finance charge of twenty dollars ($20) may be charged on any retail installment *contract.*

Minimum charge $20.

Finance charge may yield monthly rate.

(c) When a retail installment contract provides for payment, other than in equal successive monthly installments, the finance charge may be a rate which will provide the same yield as is permitted on monthly payment contracts under subsections (a) and (b) hereof, having due regard for the schedule of payments in the contract.

HeinOnline -- 1971 vol. II 1532 1971

(d) Notwithstanding the provisions of any other law, a retail charge account agreement may provide for, and the seller or holder may charge, collect and receive a finance charge, as specified herein, for the privilege of paying in installments thereunder. The finance charge may be computed from month to month (which need not be a calendar month) or other regular billing cycle period by applying a rate not to exceed one and one-half percent (1 1/2%) for each such monthly period to an amount (not including any unpaid finance charge) not in excess of the greatest of:

Retail charge account agreement may provide monthly finance charge not to exceed 1½%.

Limitations.

(i) the average daily balance in the account in the billing cycle period; or

(ii) the median amount within a ten dollar ($10) range within which such average daily balance or beginning balance falls, provided the seller applies the same rate of finance charge to all such balances within such range.

(e) If the finance charge so determined pursuant to (d) above, for such monthly period is less than fifty cents (50¢), a maximum finance charge not in excess of fifty cents (50¢) may be charged, received and collected for such period."

Where less than 50c—maximum charge 50c per month.

Section 3. Effective date and contracts executed prior thereto.

Effective date.

This act shall take effect on July 1, 1971. Provided, however, that section 2 hereof shall govern the finance charge to be charged, collected and received on or after such effective date under any retail charge account agreement, whether entered into before or after such date. This act shall not apply to suits pending before the effective date hereof.

July 1, 1971.

Pending suits exempt.

Approved March 18, 1971.

CHAPTER NO. 417

An Act to Establish Minimum Wages and Hours for Employees in the State of Montana; Delegating to the Commissioner of Labor the Duty of Administering the Act; and Providing Enforcement.

HeinOnline -- 1971 vol. II 1533 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Policy—minimum wage and overtime compensation standards.

Section 1. **Declaration of policy.** It is declared to be the policy of this act (1) to establish minimum wage and overtime compensation standards for workers at levels consistent with their health, efficiency, and general well-being; (2) to safeguard existing minimum wage and overtime compensation standards which are adequate to maintain the health, efficiency, and general well-being of workers against the unfair competition of wage and hour standards which do not provide such adequate standards of living; and (3) to sustain purchasing power and increase employment opportunities.

Definitions.

Section 2. **Definitions.** (a) As used in this act, "commissioner" means the Commissioner of Labor and Industry.

"Commissioner."

"Wage."

(b) "Wage" means compensation due to an employee by reason of his employment, payable in legal tender of the United States or check on banks convertible into cash on demand at full face value, subject to such allowance as may be permitted by regulations of the commissioner under Section 5 of this act. The term "wage" includes the reasonable cost to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities, are customarily furnished by such employer to his employees; provided however, that in no case shall such inclusion exceed an amount equal to forty percent (40%) of the total wage paid by such employer to such employee.

"Employ."

(c) "Employ" means to suffer or permit to work.

"Employee."

(d) "Employee" includes any individual employed by an employer.

"Occupation."

(e) "Occupation" means any occupation, service, trade, business, industry or branch or group of industries or employment or class of employment in which employees are gainfully employed.

"Farm worker."

(f) "Farm worker" means any person employed to do any service performed on a farm or ranch.

"Farm and ranch."

(g) "Farm or ranch" shall mean any endeavor primarily engaged in cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feed-

HeinOnline -- 1971 vol. II 1534 1971

ing, caring for, training, and management of livestock, bees, and poultry and fur-bearing animals and wildlife.

Minimum wage—$1.60 per hour.

Section 3. **Compensation.** (a) Except as may otherwise be provided pursuant to this act, every employer shall pay to each of his employees wages at a rate not less than one dollar sixty cents ($1.60) an hour, save and except for farm workers as herein defined and students employed at an amusement or recreational establishment that operates on a seasonal basis, who shall be compensated at not less than the following rates:

Farm workers and students minimums.

$1.20 per hour—first year.

(1) one dollar twenty cents ($1.20) an hour for the first year from the effective date of this act.

$1.40 per hour—second year.

(2) one dollar forty cents ($1.40) an hour for the second year from the effective date of this act.

$1.60 per hour—third year and thereafter.

(3) one dollar sixty cents ($1.60) an hour for the third year from the effective date of this act and thereafter.

40 hour work week.

(b) No employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1½) times the hourly wage rate at which he is employed. No overtime provision shall apply for farm workers. Employers of students at an amusement or recreational area that operates on a seasonal basis who furnish said students with board, lodging or other facilities shall not employ said students for a work week longer than forty-eight (48) hours, unless such students receive compensation for their employment in excess of forty-eight (48) hours in a work week at a rate of not less than one and one-half (1½) times the hourly wage rate at which they are employed.

Overtime—1½ times hourly wage rate.

Students employed in amusement or recreational area.

48 hour work week.

Overtime—1½ times hourly wage rate.

Farm workers.

(c) In the case of a farm worker employed for a part of a calendar year which includes periods requiring working hours in excess of eight hours per day and other seasonal periods requiring working hours substantially less than eight hours per day the employer may pay the worker at a fixed rate of compensation during the term of employment. The employer may elect to: (1) keep a record of the total number of hours worked by the worker during the part of the year during which

Fixed rate of compensation or record of hours worked.

HeinOnline -- 1971 vol. II 1535 1971

the worker was employed by him. The total wages paid by such employer to such employee for that part of the year during which said employee was employed by him shall not be less than the applicable minimum wage rate multiplied by the total number of hours so worked, or (2) In lieu of the minimum wage set forth herein, pay the farm worker a wage as herein defined on a monthly basis. This monthly compensation shall constitute a minimum wage and shall not be less than the following rates:

Minimum hourly rate or monthly basis.

Minimum monthly wage.

$280—first year. (a) two hundred eighty dollars ($280) a month for the first year from the effective date of this act,

$325—second year. (b) three hundred twenty-five dollars ($325) a month for the second year from the effective date of this act,

$375—third year. (c) three hundred seventy-five dollars ($375) a month for the third year from the effective date of this act.

Exclusions. Section 4. **Exclusions.** The provisions of Section 3 of this act shall apply with respect to:

(a) Students participating in a distributive education program established under the auspices of an accredited educational agency.

(b) Persons employed in private homes whose duties consist of menial chores such as baby sitting, mowing lawns, cleaning sidewalks.

(c) Persons employed directly by the head of a household to care for children dependent upon the head of the household.

(d) Immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a "dependent".

(e) Any persons not regular employees thereof who voluntarily offer their services to a non-profit organization on a fully or partially reimbursed basis.

(f) Handicapped workers (1) engaged in work which is incidental to training or evaluation programs or (2) whose earning capacity is so severly impaired that they are unable to engage in competitive employment.

(g) Apprentices or learners who may be exempted

HeinOnline -- 1971 vol. II 1536 1971

by the commissioner for a period not to exceed thirty (30) days of their employment.

(h) Learners under the age of nineteen (19) who are employed as farm workers, provided that such exclusion shall not exceed a period of one hundred eighty (180) days from their initial date of employment and, further provided that during this exclusion period wages paid such learners may not be less than fifty percent (50%) of the minimum wage rate established in this act.

(i) Retired or semi-retired persons performing part-time incidental work as a condition of their residence on a farm or ranch.

(j) Any individual employed in a bona fide executive, administrative, or professional capacity as these terms are defined and delimited by regulations of the commissioner.

(k) Any individual employed by the United States of America.

Section 5. **Regulations.** The commissioner shall make and revise administrative regulations to carry out the purposes of this act. Such regulations shall take effect upon publication by the commissioner. Any person who is aggrieved by an administrative regulation may obtain a hearing before the commissioner upon filing written protest with the commissioner who shall thereupon set such matter for hearing in the county of residence of such protestant within thirty (30) days after receipt of such protest. After such hearing, the commissioner shall promulgate such further administrative regulations as the evidence produced at said hearing shall justify.

Commissioner shall make regulations.

Publication.

Right to hearing.

Protest.

Hearing.

Section 6. **Enforcement.** Enforcement of this act shall be treated as a wage claim action and shall be in accordance with sections 41-1301 through 41-1324, R.C.M. 1947, as amended.

Enforcement.

Section 7. **Provisions cumulative.** The provisions of this act shall be in addition to other provisions now provided by law for the payment and collection of wages and salaries, but shall not apply to employees covered by the Fair Labor Standards Act.

Provisions cumulative.

Exclusion.

Approved March 18, 1971

HeinOnline -- 1971 vol. II 1537 1971

CHAPTER NO. 418

An Act to Provide for the Issue and Sale By the State Board of Examiners of Bonds for the Purpose of Constructing an Addition to the Employment Security Commission Building Located on the Capitol Building Grounds; Designating the Funds from Which Said Bonds Shall Be Paid; Providing for an Employment Security Commission Building Interest and Sinking Fund; Enumerating the Powers and Duties of the State Board of Examiners in Carrying Out the Provisions of this Act; Authorizing the State Land Board to Purchase Said Bonds With Moneys from the Long-Term Investment Funds; Providing a Savings Clause; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Authority of state board to issue and sell bonds—addition to employment security commission office building.

Section 1. The State Board of Examiners of the State of Montana is hereby authorized to issue and sell bonds for the purpose of constructing an addition to the Employment Security Commission office building presently existing on the capitol building grounds, adjacent to the capitol building, namely on lots 9 through 24, inclusive in Block 20 of the Corbin addition to the City of Helena, County of Lewis and Clark, Helena, Montana, and for the purpose of landscaping and paving around said building.

Board directed to employ architect.

Proceed with construction.

Section 2. Upon the sale of the bonds, the State Board of Examiners is hereby empowered and directed to employ an architect to prepare plans and specifications, and to proceed with the constructing of an addition to the presently existing Employment Security Commission building on the state capitol grounds, said addition to be used as office facilities by the Employment Security Commission within the limitations prescribed by the United States Department of Labor, Manpower Administration and the United States Secretary of Labor.

Call for bids.

Contracts.

Bond.

Section 3. The State Board of Examiners shall call for bids for the construction of, and for the landscaping and paving around said addition to the Employment Security Building, and let contracts for the same, all in accordance with the laws of the State of Montana. Said Board shall require the contractor to give bond to the State of Montana in such amount as the Board may determine, conditioned for the faithful performance of his duties and contract.

HeinOnline -- 1971 vol. II 1538 1971

Maximum amount $449,000.

Section 4. The aggregate amount of bonds authorized by this act for the purpose of herein expressed shall not exceed the sum of four hundred ninety-nine thousand dollars ($499,000).

Bond provisions.

Section 5. Bonds issued and sold by the State Board of Examiners under authority of this act shall bear interest at the current and prevailing interest rate, said interest to be payable semi-annually. They shall be either amortization or serial bonds, shall bear such date as the State Board of Examiners shall prescribe, and shall be payable over such period of years, not exceeding twenty (20), as said Board may specify. All bonds shall be optional and redeemable five (5) years after the date of issue and on any interest payment date thereafter, at the option of the State Board of Examiners. Said bonds shall be in such denominations and sums and shall contain such recitals as the State Board of Examiners may determine, shall be signed by the Governor, the Attorney General, and the Secretary of State as members of said Board, and shall be paid at the office of the State Treasurer of the State of Montana. The coupons attached to said bonds may bear the facsimile signature of the members of said Board.

Interest.

Maximum period 20 years.

Optional redemption 5 years after date.

Sale of bonds.

Section 6. Said bonds shall be sold by the State Board of Examiners at such time, in such manner, and in such amounts as the Board shall deem best to carry out the provisions of this act; provided that none of such bonds shall be sold for less than par, plus accrued interest to the date of delivery of the bonds. Each of said bonds shall be registered before delivery with the state Treasurer of the State of Montana, who shall keep accurate accounts of payments of interest and principal upon said bonds.

Registration.

Funds for payment.

Section 7. The principal and interest of the bonds authorized by this act shall be payable out of the following funds and from them only: All money credited to this state's account in the unemployment trust fund by the Secretary of the Treasury of the United States of America pursuant to Section 903 of the Social Security Act, as amended, and all money received from the United States Secretary of Labor and authorized for payment to provide office space for the central offices of the Employment Security Commission at Helena, Montana, immediately following use of said addition to said building

HeinOnline -- 1971 vol. II 1539 1971

upon completion of erection, pursuant to Title III of the Social Security Act, as amended, shall be and the same is hereby perpetually dedicated and appropriated for the payment of the principal and interest of the bonds provided for by this act to the extent said money may be sufficient to pay the same; provided said bonds shall be issued and sold by said state Board of Examiners as herein provided only for the total sum or amount necessary to be raised in excess of such total of all balances or sums that may be accrued and available from said sources for erection of said building a total of four hundred ninety-nine thousand dollars ($499,000).

Appropriation.

Special fund created.

Section 8. To provide for the payment of the interest and principal of the bonds authorized by this act, there is hereby created a special fund to be known as the Employment Security Commission building interest and sinking fund, into which fund shall be paid all the sums of money hereinbefore dedicated and appropriated to the payment of the principal and interest of said bonds and the erection of said addition to the Employment Security Building including the landscaping and paving around it.

Authority to purchase bonds from long-term investment fund.

Section 9. The State Board of Land Commissioners is hereby authorized to purchase the bonds provided for by this act with moneys from the long-term investment fund notwithstanding the provisions of sections 81-1001 and 81-1006 of the Revised Codes of Montana, 1947.

Validity of appropriation.

Section 10. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Severability clause.

Section 11. Every section of this act and every part of each section is hereby declared to be independent of each other, and the holding of any section or part hereof to be void or ineffective for any cause shall not be deemed to affect any other section or part hereof.

Effective immediately.

Section 12. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1971

HeinOnline -- 1971 vol. II 1540 1971

CHAPTER NO. 419

An Act to Provide for the Issue and Sale By the State Board of Examiners of Long-Term Bonds for the Purpose of Erecting Employment Security Commission Office Buildings Within the State of Montana, Designating the Funds from Which Said Bonds Shall Be Paid; Providing for Employment Security Commission Interest and Sinking Funds; Enumerating the Powers and Duties of the State Board of Examiners in Carrying Out the Provisions of This Act; Authorizing the State Land Board to Purchase Said Bonds with Moneys from the Long-Term Investment Funds; Providing a Savings Clause; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

State board authorized to issue and sell bonds—construction of employment security commission office buildings.

Section 1. The state board of examiners of the state of Montana is hereby authorized to issue and sell bonds for the purpose of purchasing land, landscaping and paving said land as is necessary and for the purpose of erecting employment security commission office buildings in the following locations:

Great Falls.

Employment Security Commission (Employment Service Building), Great Falls, Montana.

Billings.

Employment Security Commission (Employment Service Building), addition, Billings, Montana.

Missoula.

Employment Security Commission (Employment Service Building), Missoula, Montana.

Helena.

Employment Security Commission (Employment Service Building), Helena, Montana.

Board shall employ architects.

Section 2. Upon the sale of the bonds, the state board of examiners is hereby empowered and directed to employ architects to prepare plans and specifications, and to proceed with the erection of buildings of suitable construction and design for use as employment security commission buildings within the limitations prescribed by the United States department of labor, manpower administration and the United States secretary of labor.

Proceed with construction.

Call for bids.

Section 3. The state board of examiners shall call for bids for the construction of said buildings and for the landscaping and paving around them, and let contracts for the same, all in accordance with the laws of the state

HeinOnline -- 1971 vol. II 1541 1971

Contractor's bond.

of Montana. Said board shall require each prime contractor to give bond to the state of Montana in such amount as the board may determine, conditioned for the faithful performance of his duties and contracts.

Maximum amount $1,055,928.

Section 4. The aggregate amount of bonds authorized by this act for the purpose herein expressed shall not exceed the sum of one million fifty-five thousand nine hundred and twenty-eight dollars ($1,055,928).

Bond provisions.

Section 5. Bonds issued and sold by the state board of examiners under authority of this act shall bear

Interest.

interest at the prevailing rate payable annually. They shall be either amortization or serial bonds, shall bear such date as the state board of examiners shall pre-

Maximum period 20 years.

scribe, and shall be payable over such period of years, not exceeding twenty (20), as said board may specify.

Optional redemption 5 years after date.

All bonds shall be optional and redeemable five (5) years after the date of issue and on any interest payment date thereafter, at the option of the state board of examiners. Said bonds shall be in such denominations and sums and shall contain such recitals as the state board of examiners may determine, shall be signed by the governor, the attorney general, and the secretary of state as members of said board, and shall be paid at the office of the state treasurer of the state of Montana.

Sale of bonds.

Section 6. Said bonds shall be sold by the state board of examiners at such time, in such manner, and in such amounts as the board shall deem best to carry out the provisions of this act; provided that none of such bonds shall be sold for less than par, plus accrued interest to the date of delivery of the bonds. Each of said bonds

Registration.

shall be registered before delivery with the state treasurer of the state of Montana, who shall keep accurate accounts of payments of interest and principal upon said bonds.

Funds for payment.

Section 7. The principal and interest of the bonds authorized by this act shall be payable out of the following funds and from them only: All money credited to this state's account in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section 903 of the Social Security Act, as amended, and all money received from the United States secretary of labor and authorized for payment to provide office space for the central offices of the

HeinOnline -- 1971 vol. II 1542 1971

employment security commission at Helena, Montana, immediately following occupancy of said buildings upon completion of erection, pursuant to Title III of the Social Security Act, as amended, shall be, and the same is hereby perpetually dedicated and appropriated for the payment of the principal and interest of the bonds provided for by this act to the extent said money may be sufficient to pay the same; provided said bonds shall be issued and sold by said state board of examiners as herein provided only for the total sum or amount necessary to be raised in excess of such total of all balances or sums that may be accrued and available from said sources for erection of said building a total of one million fifty-five thousand nine hundred and twenty-eight dollars ($1,055,928).

Appropriation.

Section 8. To provide for the payment of the interest and principal of the bonds authorized by this act, there is hereby created a special fund to be known as the employment security commission building interest and sinking fund, into which fund shall be paid all the sums of money hereinbefore dedicated and appropriated to the payment of the principal and interest of said bonds and the erection of said buildings including the landscaping and paving around them.

Special fund created.

Section 9. The state board of land commissioners is hereby authorized to purchase the bonds provided for by this act with moneys from the long-term investment fund notwithstanding the provisions of sections 81-1001 and 81-1006, R.C.M. 1947.

Authority to purchase bonds from long-term investment fund.

Section 10. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the Budget Act.

Validity of appropriation.

Section 11. Every section of this act and every part of each section is hereby declared to be independent of each other, and the holding of any section or part hereof to be void or ineffective for any cause shall not be deemed to affect any other section or part hereof.

Severability clause.

Section 12. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 18, 1971

HeinOnline -- 1971 vol. II 1543 1971

CHAPTER NO. 420

An Act Relating to Fees Allowed to Sheriffs for Board of Prisoners; Amending Sections 16-2808, 16-2818 and 16-3802, R.C.M. 1947; Repealing Sections 25-227 and 25-228, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-2808, R.C.M. 1947, is amended to read as follows:

Agreement with county commissioners— use of jail for federal prisoners.

"16-2808. **Provision and agreement for use of county jails for federal prisoners.** Provision and agreement for the use of said jails and the support and subsistence of such federal prisoners shall first be made by the United States through or by the proper officer or officers, with the board of county commissioners of the county wherein such prisoners are to be confined, such agreement to be in writing and contain a provision that the United States shall, upon claim presented for the county by its county clerk and recorder, pay into the county treasury

$5.00 per day.

of the county the sum of five dollars ($5) per day for each and every prisoner held in the county jail upon order or commitment of the United States government or any department or officer thereof."

Amending clause.

Section 2. Section 16-2818, R.C.M. 1947, is amended to read as follows:

Duties of sheriff to receive prisoners.

"16-2818. **Sheriff to receive all persons duly committed — medical expense.** The sheriff must receive all persons committed to jail by competent authority, and provide them with necessary food, clothing and bedding,

Claim for actual expenses.

for which he shall *submit claims for the actual expenses incurred to* the board of county commissioners *for their determination,* and, except as provided in the next section, to be paid out of the county treasury. If in the opinion of the sheriff any prisoner, while detained, re-

Medical expenses.

quires medication, medical services or hospitalization, the expense of the same shall be borne by the agency or authority at whose instance the prisoner is detained when the agency or authority is not the county wherein the

Collection.

prisoner is being detained. The county attorney shall initiate proceedings to collect any charges arising from such medical services or hospitalization for the prisoner involved if it is determined the prisoner is financially able to pay."

HeinOnline -- 1971 vol. II 1544 1971

Section 3. Section 16-3802, R.C.M. 1947, is amended to read as follows: Amending clause.

"16-3802. **Enumeration of county charges.** The following are county charges; County charges defined.

1. Charges incurred against the county by virtue of any provision of this title.

2. One-half of the salary of the county attorney, and all expenses necessarily incurred by him in criminal cases arising within the county.

3. The salary and actual expenses for traveling when on official duty allowed by law to sheriffs, and the compensation allowed by law to constables for executing process on persons charged with criminal offenses.

4. The board of prisoners confined in jail.

5. The sums required by law to be paid to grand and trial jurors and witnesses in criminal cases.

6. The accounts of the coroner of the county for such services as are provided by law.

7. All charges and accounts for services rendered by any justice of the peace for services in the examination or trial of persons charged with crime as provided for by law.

8. The necessary expenses incurred in the support of county hospitals and poor farms, and the indigent sick and the otherwise dependent poor whose support is chargeable to the county.

9. The contingent expenses necessarily incurred for the use and benefit of the county.

10. Every other sum directed by law to be raised for any county purpose under the direction of the board of county commissioners, or declared to be a county charge."

Section 4. Sections 25-227 and 25-228, R.C.M. 1947, are repealed. Repealing clause.

Approved March 18, 1971

CHAPTER NO. 421

An Act Amending Sections 4-317, 4-324 and 4-347, R.C.M. 1947, and Section 4, Chapter 296, Laws of 1969, to Make

HeinOnline -- 1971 vol. II 1545 1971

the Current Beer Barrelage Tax Permanent; Providing for Severability; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 4-317, R.C.M. 1947, is amended to read as follows:

Beer brewer—annual license required—fee.

"4-317. **Licenses of brewers — persons to whom brewers may sell beer — barrelage tax.** (1) Any brewer duly licensed as such by the United States of America, who manufactures beer in the state of Montana, upon payment of the annual license fee imposed by section 4-341 and upon presenting satisfactory evidence to the board as required by section 4-310, shall be licensed by the board in accordance with the provisions of this act and such regulations as may be prescribed by the board, to sell and deliver:

(a) Beer to a vendor;

(b) Beer to any licensees who are entitled to purchase beer from a brewer under this act; or

(c) Beer to the public, subject to the limitations and restrictions contained in this act; or to do any one or more of such acts of sale and delivery of beer.

Beer tax—$3 per 31 gallon barrel sold—payable monthly.

(2) In addition to the annual license tax imposed by section 4-341, a tax of *three dollars ($3)* per barrel of thirty-one (31) gallons is hereby levied and imposed on each and every barrel of beer sold by any duly licensed brewer who manufactures beer in the state of Montana, which said barrelage tax shall be due at the end of each month and shall be payable with the brewer's monthly return or statement required to be made to the board under the provisions of section 4-311."

Amending clause.

Section 2. Section 4-324, R.C.C. 1947, is amended to read as follows:

Imported beer tax—$3 per 31 gallon barrel sold—payable monthly.

"4-324. **Tax on imported beer — computation in case of barrels of capacity other than thirty-one (31) gallons.** A tax of *three dollars ($3)* per barrel of thirty-one (31) gallons, is hereby levied and imposed on each and every barrel of beer manufactured out of this state and sold herein by any wholesaler, which said tax shall be due at the end of each month from said wholesaler, upon any such

HeinOnline -- 1971 vol. II 1546 1971

beer so sold by him during that month. As to any beer imported and sold in containers other than barrels, or in barrels of more or less capacity than thirty-one (31) gallons, the quantity content shall be ascertained and computed by the board in determining the amount of tax due, as herein provided for."

Other containers—determination of tax.

Section 3. Section 4-347, R.C.M. 1947, is amended to read as follows:

Amending clause.

"4-347. **Revenue to be paid to state treasurer — disposition of revenue.** Except as provided in section *4-347.1* of this act, all fees, charges, taxes and revenues collected by or under authority of the Montana liquor control board, under the Montana Beer Act shall be paid over to the state treasurer on or before the tenth *(10th)* day of each and every month who shall deposit said funds to the credit of the state general fund."

Deposit of revenues.

Section 4. There is a new section in Title 4, chapter 3, R.C.M., 1947, which amends and makes permanent section 4, chapter 296, Laws of 1969, which reads as follows:

"4-347.1. **Revenue allocation.** *All* revenue received from taxes on beer under sections 4-317 and 4-324, R.C.M. 1947, over and above one dollar and fifty cents ($1.50) per barrel of thirty-one (31) gallons shall be deposited with the state treasurer to the credit of the incorporated cities and towns beer tax account in the earmarked revenue fund. The state treasurer shall, monthly, distribute this amount of money to the incorporated cities and towns in the direct proportion that the population of each city and town bears to the total population of all incorporated cities and towns as shown in the *latest official* federal census. For cities and towns incorporated after *the latest official federal census,* the census shall be determined as of the date of incorporation as evidenced by the certificate of the incorporating officials of that city or town. If a city or town disincorporates, it shall cease to receive any funds under this section and the amount previously distributed to the city or town shall be distributed to the remaining incorporated cities and towns. All funds received by cities and towns under this section shall be expended for state purposes such as law enforcement, maintenance of the transportation system, and public health."

Allocation of revenues.

Distribution to cities and towns.

Expenditures.

HeinOnline -- 1971 vol. II 1547 1971

Severability clause.

Section 4. If any section, subdivision, sentence or word of this act shall be determined by a court of competent jurisdiction to be unconstitutional or inoperative, such determination shall not affect the remaining portions of this act.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 18, 1971

CHAPTER NO. 422

An Act to Amend Sections 75-6207, 75-6208, Revised Codes of Montana, 1947, Relating to an Increase in the Employer Contribution to the Pension Accumulation Fund and Further Relating to an Increase in the Benefits of Teachers Retired Before July 1, 1969.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-6207, R.C.M. 1947, is amended to read as follows:

Teachers' retirement board—funds.

"75-6207. **Method of financing.** The retirement board shall establish and maintain the following funds in which all of the assets of the retirement system shall be credited according to the purpose for which the assets are held. (1) Annuity savings fund. The annuity savings fund shall be a fund in which the contributions from the members to provide for their annuities shall be accumulated in individual accounts for each member. Contributions to and payments from the annuity savings fund shall be made in the following manner.

Annuity savings fund.

Payroll deductions.

(a) Each employer shall deduct from the compensation of each active member on each and every payroll of such member for each and every payroll period subsequent to the date on which such member became a member an amount equal to five percent (5%) of such member's earnable compensation, but no employer shall make any deductions for annuity purposes from the compensation of a member who has attained the age of sixty (60) and rendered thirty-five (35) years of creditable service if such member elects not to contribute.

Five percent.

Exemption age 60 and 35 years service.

Determination of amount earnable.

(b) In determining the amount earnable by an active

HeinOnline -- 1971 vol. II 1548 1971

member in a payroll period, the retirement board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not an active member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any member of such an amount as shall not exceed one-tenth (1/10) or one percent (1%) of the annual compensation upon the basis of which said deduction is to be made.

Modified deduction.

(c) Such deductions shall be made notwithstanding that the minimum compensation provided by law for a member may be reduced thereby. Every member shall be deemed to consent and agree to the deductions prescribed by this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by the retirement system.

Reduced minimum compensation.

Consent.

(d) In addition to the contributions deducted from compensation and subject to the approval of the retirement board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions, or any part thereof, which he had previously withdrawn; or any member may deposit therein by a single payment or by an increased rate of contribution amounts for the purchase of an additional annuity. Such additional amounts so deposited shall become a part of his accumulated contributions. In the case of disability retirement, they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his retirement allowance. The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death shall be paid from the annuity savings fund, and an amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid shall be transferred to the pension accumulation fund. Upon the retirement of a member

Member may redeposit amount withdrawn.

Deposit for additional annuity.

Payments and transfers.

HeinOnline -- 1971 vol. II 1549 1971

his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

Annuity reserve fund.

(2) Annuity reserve fund. The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

Transfer—annuity reserve.

Pension accumulation fund.

(3) Pension accumulation fund. The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

Contributions and payments.

Employer contribution—5⅛%.

(a) Each employer shall pay into the pension accumulation fund an amount equal to *five and one-eighth percent (5 1/8%)* of the earnable compensation of each member employed during the whole or part of the preceding payroll period.

Trustees—budget and payment.

(b) If the employer is a district or community college district, the trustees shall budget and pay for the employer's contributions under the provisions of section 75-7204.

Legislative appropriation.

(c) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system or the Montana state deaf and blind school, the legislative assembly shall appropriate to each employer an adequate amount to allow the payment of the employer's contribution.

County budget and payment.

(d) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption of a county budget and for payments under such budget.

Interest and earnings.

(e) All interest and other earnings realized on the monies of the retirement system shall be credited to the pension accumulation fund and the amounts required to

HeinOnline -- 1971 vol. II 1550 1971

allow regular interest on the annuity savings fund, the annuity reserve fund and the pension reserve fund shall be transferred to the respective funds from the pension accumulation fund.

Pensions and benefits.

(f) All pensions and benefits in lieu thereof, including pensions payable under section 75-6218, with the exception of those payable to members not entitled to prior service credit shall be paid from the pension accumulation fund.

Board may transfer surplus or deficit.

(g) The retirement board may in its discretion transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund or the pension reserve fund, as shown by actuarial valuation, and also such expenses as hereinafter provided.

Transfer to pension reserve fund.

(h) Upon the retirement of a member who does not have a prior service certificate, the actuarial equivalent of this pension shall be transferred from the pension accumulation fund to the pension reserve fund.

Pension reserve fund.

(4) Pension reserve fund. The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted to members not entitled to prior service credit and from which shall be paid such pensions and benefits in lieu thereof. Should a member not entitled to prior service credit who has been retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the pension reserve held on account of his pension shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of such a disability beneficiary be reduced as a result of an increase in his earning capacity the amount of annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

Transfer to pension accumulation fund.

Expense fund.

(5) Expense fund. The expense fund shall be the fund to which shall be credited all monies contributed for the administrative expenses of the retirement system and from which the expenses of administration of the retirement system shall be paid exclusive of amounts payable as retirement allowances or other benefits. The retirement board shall determine annually the amount required for the expense fund to defray the administrative

HeinOnline -- 1971 vol. II 1551 1971

Contributions.

expense in the ensuing fiscal year. Contributions shall be made to the expense fund as follows:

Payroll deduction—$1 per year.

(a) There shall be deducted from the compensation of each member by his employer the sum of one dollar ($1) for each year, in addition to all other deductions herein prescribed. The sum of such administrative assessments shall be paid to the retirement board by each employer in the same manner provided for the payment of the employee contributions. The administrative assessments shall be credited to the expense fund by the retirement board.

Deficit paid from interest and earnings.

(b) That portion of the expense fund not financed under subsection (a) shall be paid from interest and other earnings realized on the monies of the retirement system."

Amending clause.

Section 2. Section 75-6208, R.C.M. 1947, is amended to read as follows:

Benefits granted.

"75-6208. **Benefits.** The retirement, disability and other benefits of the retirement system shall be granted on the basis of the following provisions: (1) Superannuation member retirement;

Application for retirement—5 years service—age 60.

(a) Any member who has completed five (5) years of creditable service, the last five (5) years of which shall have been in this state, and who has attained the age of sixty (60) may retire from service, if he files with the retirement board his written application setting forth the fact of his retirement.

Retirement age 70.

(b) Any member in service who has attained the age of seventy (70) years during any school year shall be retired on the first day of September following his seventieth birthday, except that this provision shall not apply to teachers in the Montana university system who may be employed beyond the age of seventy (70) upon the recommendation of the president of the employing unit to the board of regents. Members over seventy (70) years of age shall not: (1) be allowed creditable service for services rendered after the end of the school year in which the age of seventy (70) is attained, (2) contribute to the retirement system after the end of such school year, and (3) have the compensation received after the end of such school year used in computing average final salary. Initial employment of teachers in the Montana university system beyond the age of seventy (70) may be

Exception—university teachers.

Limitations.

Initial employment—university teachers over 70.

HeinOnline -- 1971 vol. II 1552 1971

made upon the recommendation of the president of the employing unit and the approval of the board of regents but such employees shall be denied membership in the retirement system,

Employment—retired members.

(c) Any retired member may be employed as a teacher in Montana and may earn an amount not to exceed one-fourth (¼) of his average final compensation without loss of retirement benefits.

Retirement allowance.

(2) Allowance for superannuation retirement. Upon superannuation retirement a member shall receive a retirement allowance based upon the following provisions:

Annuity.

(a) He shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

Pension.

(b) He also shall receive a pension of one-quarter (¼) of his average final compensation provided his creditable service is at least thirty-five (35) years, otherwise, a pension of one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of his creditable service.

Additional pension.

(c) If he has a prior service certificate in full force and effect, he also shall receive an additional pension which shall be equal to one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

Minimum annual retirement allowance—30 years service.

(d) The minimum annual retirement allowance for a member who has completed thirty (30) years service and who retired after September 1, 1937, and before June 30, 1948, shall be *two thousand dollars ($2,000)* and the minimum retirement allowance for a member who retired after September 1, 1937, and before June 30, 1948, but whose service is less than thirty (30) years shall receive a minimum retirement allowance based on the proportionate amount of *two thousand dollars ($2,000)* that his service bears to thirty (30) years of service.

35 years service.

(e) The minimum annual retirement allowance for a member who has completed thirty-five (35) years of service and who retires after June 30, 1949, shall be *two thousand dollars ($2,000)*.

Increase—2%—eligibility.

(f) Each member receiving a superannuation allowance on June 30, 1967, shall be entitled to an increase in his

HeinOnline -- 1971 vol. II 1553 1971

original retirement allowance of two percent (2%) for each year he has been retired between July 1, 1937, and June 30, 1967, but if he is eligible under subsections (2) (d) or (2) (e) above and the benefit thereunder is larger than the increased retirement allowance prescribed herein, this provision shall not apply.

Refund to beneficiary.

(g) In the event a member retired on a superannuation allowance has not received more than three (3) retirement payments prior to death the beneficiary of the member shall receive a refund of the difference between the total retirement allowance paid and the amount of accumulated contributions.

Increase—5%—eligibility.

(h) Every beneficiary receiving a superannuation allowance on June 30, 1969, shall be entitled to an increase in his superannuation allowance of five percent (5%) beginning July 1, 1971, but if he is eligible under subsections (2) (d) or (2) (e) above and the benefit thereunder is larger than the increased retirement allowance prescribed herein, this provision shall not apply.

Disability retirement.

(3) Disability member retirement:

Application—5 years or more of service.

(a) Upon the application of an active member or of his employer, any active member who has five (5) or more years of creditable service may be retired by the retirement board not less than thirty (30) and not more than ninety (90) days after the date of filing such application on a disability retirement allowance. Before any member shall be eligible for a disability retirement, the medical board of the retirement system shall certify that he is mentally or physically incapacitated for the further performance of his duties, that such incapacity is likely to be permanent and that he should be retired.

Medical board certification.

Retroactive payments.

(b) If the applicant for disability retirement was prevented because of the disability from making application at the time of the commencement of his disability, the retirement board shall grant the disability retirement upon the proper application for disability retirement allowance and make payments retroactive to the thirtieth day after the date of commencement of his disability.

Annual medical examination for 5 years—then once every 3 years—under age 60.

(c) Reexamination of beneficiaries retired on account of disability. Once each year during the first five (5) years following the retirement of a member on disability retirement allowance, and once in every three (3) year

HeinOnline -- 1971 vol. II 1554 1971

period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has not yet attained the age of sixty (60) to undergo a medical examination by the medical board or a physician or physicians designated by the medical board. The examination shall be made at the place of residence of the beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not yet attained the age of sixty (60) refuse to submit to at least one (1) medical examination in any year by the medical board or its representative, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his disability pension may be revoked by the retirement board.

Effect of refusal.

(d) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be changed later, the amount of his pension shall be reduced to an amount which, new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

Board may certify ability to work.

Modified pension.

Nonmember.

(e) Should a disability beneficiary under age sixty (60) be restored to active service at a compensation not less than his average final compensation, his retirement allowance shall cease, and he shall again become an active member of the retirement system. Any prior service certificate on the basis of which his service was computed at the time of his disability retirement shall be restored to full force and effect an addition upon his subsequent retirement, he shall be credited with all his subsequent service as a member. Should he be restored to active

Under age 60—restored to active service—allowance ceases.

Active member.

Limitation on pension amount.

HeinOnline -- 1971 vol. II 1555 1971

service on or after the attainment of the age of fifty-five (55) years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the period of his previous retirement nor the sum of the pension which he was receiving immediately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new member.

Disability retirement allowance.

(4) Allowance for disability retirement. Upon retirement for disability, a member shall receive a superannuation allowance prescribed under subsection (2) above if he is eligible; otherwise he shall receive a disability retirement allowance which shall consist of:

Annuity.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement.

Pension—computation.

(b) A pension which together with his annuity, shall provide a total retirement allowance equal to ninety percent (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter (¼) of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter (¼) of his average final compensation, provided, however, that no such allowance shall exceed ninety percent (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for superannuation retirement.

Payment to beneficiary.

(c) In the event payments made to a person retired because of disability do not equal the amount of his accumlated contributions prior to his death, the difference between the total retirement allowance paid and the amount of the accumulated contributions of the member shall be paid to the beneficiary.

Right to withdraw contributions.

(5) Withdrawal of accumulated contributions. Any inactive member electing to do so or any person whose membership terminates shall withdraw his accumulated contributions to his annuity account in the retirement system in accordance with the following provisions:

HeinOnline -- 1971 vol. II 1556 1971

Inactive member may elect.

(a) An inactive member under the provisions of subsections (1) or (3) of section 75-6210 may elect, without right or revocation to withdraw his accumulated contributions, and if he does not withdraw his accumulated contributions he shall thereafter remain an inactive member of the retirement system with the right to qualify for the benefits of the retirement system;

Recovery from illness—separation from armed forces.

(b) Upon recovery from a disabling illness or separation from the armed forces, any person qualifying as an inactive member under the provisions of subsection (2) of section 75-6210 shall withdraw his accumulated contributions unless he returns to active membership.

Termination of membership.

(c) Any person whose membership terminates under the provisions of subsection (4) of section 75-6211 shall withdraw his accumuated contributions.

Payment.

Any person withdrawing his accumulated contributions shall be paid the amount he contributed, less any unpaid membership fees. The accumulated interest credited to his annuity account shall be transferred to the pension accumulation fund.

Transfer of interest.

Death allowances.

(6) Allowances for death of a member.

Payment to estate or named beneficiary.

(a) Should a member die b e f o r e retirement the amount of the member's accumulated contributions shall be paid to his estate or such person as he may have designated in the manner prescribed by the retirement board which shall be filed with the board prior to the member's death.

Beneficiary may elect monthly annuity.

(b) In lieu of benefits provided in (a) above, if the deceased member had qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to receive a monthly life annuity shall be based on the beneficiary's attained age at the time of the deceased member's death and calculated from an amount equal to the required reserve for the deceased member's creditable service together with the deceased member's accumulated contributions.

Payments to minor children.

(c) If the deceased member had five (5) or more years of creditable service and was an active member in the state of Montana within one (1) year prior to his death, the sum of fifty dollars ($50) per month shall be paid to each minor child of the deceased member until such child reaches his eighteenth (18th) birthday.

HeinOnline -- 1971 vol. II 1557 1971

Member's options.

(7) Optional allowances. With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement or disability allowance payable throughout life as hereinabove provided, or he may on retirement elect to receive the actuarial equivalent at the time of his retirement or disability allowance in a lesser retirement allowance payable throughout life with the provision that:

Life payments to member.

Lesser amount.

Payment to legal representative or named beneficiary.

(a) Option 1. If he dies before he has received in payment of his annuity the amount of his accumulated contributions as they were at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board; or

Life payments to named beneficiary.

(b) Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

One-half to named beneficiary for life.

(c) Option 3. Upon his death, one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

Other benefits—member or named beneficiary.

(d) Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement, except such other benefit or benefits, together with the lesser retirement allowance shall be certified by the actuary to be equivalent actuarial value to his retirement allowance and shall be approved by the retirement board."

Approved March 18, 1971.

HeinOnline -- 1971 vol. II 1558 1971

CHAPTER NO. 423.

An Act to Change Age Requirements to Eighteen; Amending Sections 16-2401, 16-2402, 16-3202, 31-135, 40-3308, 40-3327, 40-4705, 40-4807, 40-5321, 66-1929, 67-1801, 67-1804, 67-1807, 69-2701, 71-1525, 77-121, 91-1702, 91-3302 and 93-9912, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-2401, R.C.M., 1947, is amended to read as follows: Amending clause.

"16-2401. **General qualifications for county office.** No person is eligible to a county office who at the time of his election is not of the age of *voting as required by the Montana Constitution,* a citizen of the state, and an elector of the county in which the duties of the office are to be exercised, or for which he is elected." Eligibility—election to county office.

Section 2. Section 16-2402, R.C.M., 1947, is amended to read as follows: Amending clause.

"16-2402. **General Qualifications for district and township offices.** No person is eligible to a district or township office who is not of the age of *voting as required by the Montana Constitution,* a citizen of the state, and an elector of the district or township in which the duties of the office are to be exercised, or for which he is elected." Eligibility—election to district or township office.

Section 3. Section 16-3203, R.C.M., 1947, is amended to read as follows: Amending clause.

"16-3203. **Election—term—qualifications.** There shall be elected in and for each county of the class named in the preceding section, at the general election to be held in November, 1892, and quadrennially thereafter, some male person to serve as county auditor of the county for which he shall be elected for the term of four (4) years, and until his successor be elected and qualified, the term to begin on the first Monday in January succeeding his election. No person shall be eligible to the office of county auditor of any county within the state who shall not have arrived at the age of *voting as required by the Montana Constitution,* and who shall not have been, for at least two (2) years next preceding his election, a bona fide resident of the county for which he shall be elected or appointed." Election—county auditor. Term of office. Eligibility.

HeinOnline -- 1971 vol. II 1559 1971

Amending clause.

Section 4. Section 31-135, R.C.M., 1947, is amended to read as follows:

"31-135. **Licenses issued to operators and chauffeurs.**

Agents for sale of drivers' licenses.

(a) The highway patrol board shall have authority to appoint county treasurers and other qualified officers to act as its agent or agents for the sale of drivers' licenses, and shall make necessary rules and regulations governing such sales.

$4 fee—operator's or chauffer's license—provisions.

The board, upon payment of four dollars ($4), (of which sum five percent (5%) shall be retained by the county treasurers for use of the county general fund) shall issue to every applicant qualifying therefor, an operator's or chauffeur's license as applied for, which license shall be purchased biennially on or before the operator's or chauffeur's birthday, and shall expire on the anniversary of the date of birth of the operator or chauffeur, two (2) years or less after the date of issue, and shall contain a photograph of such licensee in such size and form as may be prescribed by the highway patrol board, a distinguishing number issued to the licensee, the full name, date of birth, resident address, and a brief description of the licensee and either a facsimile of the signature of the licensee or a space upon which he shall write his signature in pen and ink, immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee.

Signature required.

Examination for renewal.

(b) The board shall, when any person applies for renewal of an operator's or chauffeur's license, test the applicant's eyesight, and may also, in the board's discretion, have such applicant demonstrate his physical ability to operate and to exercise ordinary and reasonable care in the operation of a motor vehicle. This examination shall not be required of any applicant who has successfully completed such an examination within the preceding five (5) year period.

"Provisional license" person under 18.

(c) Whenever the board issues an original license to a person under the age of *eighteen (18) years,* such license shall be designated and clearly marked as a "provisional license." Any license so designated and marked may be suspended by the board for a period of not more than twelve (12) months, when its record discloses that the licensee, subsequent to the issuance of such license, has been guilty of careless or negligent driving. Upon renewal as applicable to operator's licenses, the board may for any reasonable cause, as shown by its records, desig-

May be suspended. Renewal.

HeinOnline -- 1971 vol. II 1560 1971

nate the renewal of the license as provisional, otherwise, a license in usual form shall be issued subject to other provisions of the laws of Montana.

(d) It shall be unlawful for any person to have in his possession or under his control, more than one (1) Montana operator's or chauffeur's license at any one time." More than one license unlawful.

Section 5. Section 40-3308, R.C.M., 1947, is amended to read as follows: Amending clause.

"40-3308. **General qualifications, resident agents and solicitors—other than life insurance agents.** (1) For the protection of the people of this state the commissioner shall not issue, continue, or permit to exist any resident agent or solicitor license as to insurance other than life or disability, except in compliance with this chapter, or as to any individual not qualified therefor as follows: Qualifications for resident agent or solicitor licenses.

(a) Must be *eighteen (18)* years of age or more, or, if for a solicitor's license, must be at least eighteen (18) years of age. 18 years of age.

(b) Must be a resident in and of this state. Resident.

(c) If for a resident agent's license, must have been appointed as agent by an authorized insurer, subject to issuance of the license. Appointment by insurer.

(d) If for a solicitor's license, must have been appointed as solicitor by a licensed resident agent, subject to issuance of the license, and intend to make and make the soliciting of insurance a principal vocation. Appointment of solicitor.

(e) Must be competent, trustworthy and of good reputation. Character.

(f) Must have had experience or training or be otherwise qualified in the kind or kinds of insurance as to which he is to be licensed, and be reasonably familiar with the provisions of this code which govern his operations as an insurance agent or solicitor. Experience and training.

(g) Must pass any written examination for the license required under this chapter. Examination.

(h) Must intend in good faith to act as, and must act as and hold himself out to be an agent or solicitor in the active solicitation and negotiation of insurance with the general public; and not seek or use the license for the negotiation or effectuation of insurance on his own prop- Intentions.

HeinOnline -- 1971 vol. II 1561 1971

erty or interest or those of his relatives or of his employer. If during any calendar year more than thirty-five percent (35%) of the commissions earned or prospectively to be earned by such an applicant or licensee have been, or probably will be, derived from insurance of his own property or interests and those of his relatives and of his employer, the license will be deemed to have been used or to be intended to be used in violation of this subdivision (h).

Violation.

Determination by commissioner.

(2) In determining the qualifications as to competence, training, experience and knowledge of the provisions of this code governing his operations as a resident insurance agent or solicitor, as provided for in subsection (1) above, of applicant agents or solicitors proposing to represent as such only insurers who confine their business in this state substantially to the insuring of the property, interests and risks of farmers, the commissioner shall relate such qualifications only to the kinds of insurance policies which the applicant will handle as such a licensee."

Amending clause.

Section 6. Section 40-3327, R.C.M., 1947, is amended to read as follows:

Adjuster's license required.

"40-3327. **Adjuster's license—qualifications—catastrophe adjustments.** (1) No person shall in this state act as or hold himself out to be an adjuster unless then licensed therefor under this chapter. Application for license shall be made to the commissioner according to forms as prescribed and furnished by him. The commissioner shall issue the license as to individuals qualified therefor upon payment of the license fee stated in section 40-2726.

Application.

Forms.

Qualifications.

(2) To be licensed as an adjuster the applicant must be qualified therefor as follows:

18 years of age.

(a) Must be an individual *eighteen (18)* years of age or more.

Resident.

(b) Must be a resident in and of Montana, or resident of another state which will permit residents of Montana regularly to act as adjusters in such other state.

Salaried employee or law graduate.

Experience, education or training.

(c) Must be a full-time salaried employee of a licensed adjuster, or a graduate of a recognized law school, or must have had experience or special education or training as to the handling of loss claims under insurance con-

HeinOnline -- 1971 vol. II 1562 1971

tracts of sufficient duration and extent reasonably to make him competent to fulfill the responsibilities of an adjuster.

(d) Must be of good character and reputation. Character.

(e) Must have and maintain in this state an office accessible to the public and keep therein the usual and customary records pertaining to transactions under the license. This provision shall not be deemed to prohibit maintenance of such office in the home of the licensee. Public office. Records.

(3) A firm or corporation, whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the license powers is separately licensed, or is named in the firm or corporation license and is qualified as for an individual license as adjuster. An additional full license fee shall be paid as to each individual in excess of one so named in the firm or corporation license to exercise its powers. Firm or corporation —adjuster's license. Fees.

(4) Except, that no such adjuster's license or qualifications shall be required as to any adjuster who is sent into this state by and on behalf of an insurer or adjusting firm or corporation for the purpose of investigating or making adjustments of a particular loss under an insurance policy, or for the adjustment of a series of losses resulting from a catastrophe common to all such losses." Out-of-state adjusters.

Section 7. Section 40-4705, R. C. M., 1947 is amended to read as follows: Amending clause.

"40-4705. **Incorporation.** (1) This section applies to stock and mutual insurers hereafter incorporated in this state. Stock and mutual insurers.

(2) Incorporators. Five (5) or more individuals, none of whom are less than *eighteen (18)* years of age, may incorporate a stock insurer; ten (10) or more of such individuals may incorporate a mutual insurer. At least a majority of the incorporators shall be citizens of the United States. At least a majority of the incorporators shall be residents of this state. Incorporators. 18 years of age. Majority must be citizens—residents.

(3) Articles of incorporation. The incorporators shall execute articles of incorporation in quadruplicate and acknowledge their execution thereof in the same manner as provided by law for the acknowledgment of deeds. Articles of incorporation.

HeinOnline -- 1971 vol. II 1563 1971

Purposes—requirements.

The articles of incorporation shall state the purpose for which the corporation is formed and shall show:

Name.
"Mutual" included.
Alternatives.

(a) The name of the corporation; if a mutual, the word "mutual" must be a part of the name. An alternative name or names may be specified for use in jurisdictions wherein conflict of name with that of another insurer or organization might otherwise prevent the corporation from being authorized to transact insurance therein.

Duration.

(b) The duration of its existence, which may be perpetual.

Kinds of insurance.

(c) The kinds of insurance, as defined in this code, which the corporation is formed to transact.

Capital stock.
Number of shares—par value.
Other provisions.

(d) If a stock corporation, its authorized capital stock, the number of shares of common stock into which divided, the par value of each such share, which par value shall be at least one dollar ($1). Shares without par value, or other than one (1) class of voting common stock, shall not be authorized. The articles of incorporation may limit or deny present or future stockholders preemptive or preferential rights to acquire additional issues of the stock, or bonds, debentures or other obligations convertible into stock, of the corporation, subject to the constitution and laws of Montana fixing the required representation and proportion of outstanding capital stock required to be represented and voted, for specified action, at any and all corporate meetings, elections, votes or consent proceedings.

Assessment.

(e) If a stock corporation, the extent, if any, to which shares of its stock are subject to assessment.

Shares subscribed.

(f) If a stock corporation, the number of shares subscribed, if any, by each incorporator.

Liability of mutual members.

(g) If a mutual corporation, the maximum contingent liability of its members, other than as to nonassessable policies, for payment of losses and expenses incurred; such liability shall be stated in the articles of incorporation, but shall not be less than one (1) nor more than six (6) times the premium for the member's policy at the annual premium rate for a term of one (1) year.

Number of directors.

(h) The minimum, not less than five (5), and the maximum, not more than twenty-one (21), number of

HeinOnline -- 1971 vol. II 1564 1971

directors who shall constitute the board of directors and conduct the affairs of the corporation; also, the names, addresses and terms of the members of the initial board of directors. The term of office of initial directors shall be for not more than one (1) year after the date of incorporation.

Principal office.

(i) The name of the county, and the city, town or place within the county, in which its principal office or principal place of business is to be located in this state.

Other provisions.

(j) Such other provisions, not inconsistent with law, deemed appropriate by the incorporators.

Incorporators.

(k) The name and residence address of each incorporator, and the citizenship of each incorporator who is not a citizen of the United States.

Amending clause.

Section 8. Section 40-4807, R.C.M., 1947, is amended to read as follows:

Farm mutual insurer—100 or more individuals—18 years of age—farm property owners.

"40-4807. **Who may form a farm mutual insurer.** (1) One hundred (100) or more individuals residing in this state, each of whom is *eighteen (18)* years of age or more, who collectively own farm property as referred to in section 40-4803 (1) (a) of this chapter valued at not less than five hundred thousand dollars ($500,000) which they desire to insure, and each of whom owns farm lands or ranch lands situated in this state valued at not less than five thousand dollars ($5,000), may incorporate a state mutual insurer.

County mutual insurer—25 or more individuals—18 years of age—farm property owners.

(2) Twenty-five (25) or more individuals residing in this state, each of whom is *eighteen (18)* years or more of age, each of whom owns farm land or ranch land valued at five thousand dollars ($5,000) or more in the county wherein is to be located the principal office of the proposed insurer, or in any county in this state contiguous with such county, and who collectively own in such counties farm property referred to in section 40-4803 (1) (a) of this chapter valued at not less than one hundred twenty-five thousand dollars ($125,000) which they desire to insure, may incorporate a county mutual insurer".

Amending clause.

Section 9. Section 40-5321, R.C.M., 1947, is amended to read as follows:

Benefit membership qualifications.

"40-5321. **Qualifications for membership.** A society

HeinOnline -- 1971 vol. II 1565 1971

15 years of age.
Insurability.

may admit to benefit membership any person not less than fifteen (15) years of age, nearest birthday, who has furnished evidence of insurability acceptable to the society. Any such member who shall apply for additional benefits more than six (6) months after becoming a benefit member shall furnish additional evidence of insurability acceptable to the society.

Person admitted prior to 18—rights and privileges.

Any person admitted prior to attaining the full age of *eighteen (18)* years shall be bound by the terms of the application and certificate and by all the laws and rules of the society and shall be entitled to all the rights and privileges of membership therein to the same extent as though the age of majority had been attained at the time of application. A society may also admit general or social members who shall have no voice or vote in the management of its insurance affairs."

General or social members.

Amending clause.

Section 10. Section 66-1929, R.C.M., 1947, is amended to read as follows:

Qualifications for broker or salesman licenses.

"66-1929. **Licenses—applicants for licenses.** (a) Licenses shall be granted only to individuals who are deemed by the commission to be of good repute and competent to transact the business of a broker or salesman in such manner as to safeguard the interests of the public.

Broker—citizen.
18 years of age.
Education.

(b) Each applicant for a broker's license shall be a citizen of the United States; shall be at least *eighteen (18)* years of age; shall have graduated from an accredited high school or shall have completed an equivalent educiaton as determined by the commission; shall have been actively engaged as a licensed real estate salesman for a period of two (2) years or shall have had experience or special education equivalent to that which a licensed real estate salesman ordinarily would receive during such two (2) years period as determined by the commission, except that if the commission shall find that an applicant could not obtain employment as a licensed real estate salesman because of conditions existing in the area where he resides, the commission may waive this experience requirement; and must file an application for license with the commission. The commission shall require such information as it may deem necessary from every applicant to determine his honesty, trustworthiness and competency.

Two years experience as real estate salesman or education equivalent.

Finding.

Waiver.

Salesman license—18 years of age.

(c) Each applicant for a salesman's license shall be at

HeinOnline -- 1971 vol. II 1566 1971

least *eighteen (18)* years of age; shall have received credit for completion of two (2) years of full curriculum study at an accredited high school or shall have completed an equivalent education as determined by the commission; and must file an application for license with the commission. His application shall be accompanied by the recommendation of the licensed broker by whom the applicant will be employed or placed under contract, ceritifying that the applicant is of good repute and that the broker will actively supervise and train the applicant during the period the requested license remains in effect. The commission shall issue to each licensed broker and to each licensed salesman a license and a pocket card in such form and size as the commission shall prescribe."

Education.

Application—recommendation by licensed broker.

License and pocket card.

Section 11. Section 67-1801, R.C.M., 1947, is amended to read as follows:

Amending clause.

"67-1801. **Definitions.** In this act, unless the context otherwise requires:

Definitions.

(a) An "adult" is a person who has attained the age of *eighteen (18) years.*

"Adult."

(b) A "bank" is a bank, trust company, national banking association, savings bank, industrial bank.

"Bank."

(c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

"Broker."

(d) "Court" means the district court of general jurisdiction in the state of Montana.

"Court."

(e) The "custodial property" includes:

"Custodial property."

(1) all securities, life insurance policies, annuity contracts and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this act;

(2) the income from the custodial property; and

(3) the proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, sur-

HeinOnline -- 1971 vol. II 1567 1971

render or other disposition of such securities, money, life insurance policies, annuity contracts and income.

"Custodian." (f) A "custodian" is a person so designated in a manner prescribed in this act; the term includes a successor custodian.

"Financial institution." (g) A "financial institution" is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal laws or the laws of a state or a federal credit union or a credit union chartered and supervised under the laws of a state; a "domestic financial institution" is one chartered and supervised under the laws of this state or chartered and supervised under federal law and having its principal office in this state: an "insured financial institution" is one, deposits (including a savings, share, certificate or deposit account) in which are, in whole or in part, insured by the federal deposit insurance corporation, by the federal savings and loan insurance corporation, or by a deposit insurance fund approved by this state.

"Domestic financial institution."

"Insured financial institution."

"Guardian." (h) A "guardian" of a minor means the general guardian, guardian, tutor or curator of his property, or estate appointed or qualified by a court of this state or another state.

"Issuer." (i) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

"Legal representative." (j) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

"Life insurance policy or annuity contract." (k) A "life insurance policy or annuity contract" means a life insurance policy or annuity contract issued by an insurance company authorized to do business in this state on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in this act or on the life of a member of the minor's family.

HeinOnline -- 1971 vol. II 1568 1971

(l) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption. "Member" of "minor's family."

(m) A "minor" is a person who has not attained the age of *eighteen (18)* years. "Minor" person under 18.

(n) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer. "Security." "Registered form."

(o) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities, or in the cancellation of surrendered securities. "Transfer agent."

(p) A "trust company" is a bank or corporation authorized to exercise trust powers in the state of Montana." "Trust company."

Section 12. Section 67-1804, R.C.M. 1947, is amended to read as follows: Amending clause.

"67-1804. **Duties and powers of custodian.** (a) The custodian shall collect, hold, manage, invest and reinvest the custodial property. Duties and powers of custodian—minor's property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of Expenditures for minor's benefit.

HeinOnline -- 1971 vol. II 1569 1971

any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

Court order for payment to minor age 14.

(c) The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of fourteen (14) years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

Distribution to minor age 18.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of *eighteen (18)* years, or if the minor dies before attaining the age of *eighteen (18)* years, he shall thereupon deliver or pay it over to the estate of the minor.

Investments.

(e) The custodian, notwithstanding statutes restricting investment by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this act or hold money so given in an account in the financial institution to which it was paid or delivered by the donor.

Authority to deal with property.

(f) The custodian may sell, exchange, convert, surrender or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

Duty to register securities.

(g) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words:

HeinOnline -- 1971 vol. II 1570 1971

"as custodian for _____ (name of minor) under the Montana Uniform Gifts to Minors Act." The custodian shall hold all money which is custodial property in an account with a broker or in an insured domestic financial institution in the name of the custodian, followed, in substance, by the words: "as custodian for _____ (name of minor) under the Montana Uniform Gifts to Minors Act." The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

Records—inspection.

(h) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of fourteen (14) years.

Custodian has same rights and powers as guardian.

(i) A custodian has (and holds as powers in trust), with respect to the custodial property, in addition to the rights and powers provided in this act, all the rights and powers which a guardian has with respect to property not held as custodial property.

Gifts of insurance.

(j) If the subject of the gift is a life insurance policy or annuity contract, the custodian:

Incidents of ownership.

(1) in his capacity as custodian, has all the incidents of ownership in the policy or contract to the same extent as if he were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom he is acting; and

Payment of premiums.

(2) may pay premiums on the policy or contract out of the custodial property."

Amending clause.

Section 13. Section 67-1807, R.C.M. 1947, is amended to read as follows:

Eligibility—successor custodian.

"67-1807. **Resignation, death or removal of custodian — bond — designation of successor custodian.** (a) Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become a successor custodian. A custodian may designate his successor by executing and dating an instrument of designation before a subscribing witness other than the succes-

HeinOnline -- 1971 vol. II 1571 1971

sor; the instrument of designation may, but need not, contain the resignation of the custodian. If the custodian does not so designate his successor before he dies or becomes legally incapacitated, and the minor has attained the age of fourteen (14) years, the minor may designate a successor custodian by executing an instrument of designation before a subscribing witness other than the successor. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this act.

Minor age 14 may designate.

Transfer of custodial property.

(b) The designation of a successor custodian as provided in subsection (a) takes effect as to each item of the custodial property when the custodian resigns, dies or becomes legally incapacitated and the custodian or his legal representative:

Registration in name of successor.

(1) causes the item if it is a security which is custodial property and in registered form or a life insurance policy or annuity contract, to be registered, with the issuing insurance company in the case of a life insurance policy or annuity contract, in the name of the successor custodian followed, in substance, by the words: "as custodian for ..... (name of minor) under the Montana Uniform Gifts to Minors Act"; and

Delivery—instruments.

(2) delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

Duty to effect transfer.

(c) A custodian who executes an instrument of designation of his successor containing the custodian's resignation as provided in subsection (a) shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in subsection (a) by the custodian or, if none, by the minor if he has no guardian and has attained the age of fourteen (14) years, or in the possession and control

HeinOnline -- 1971 vol. II 1572 1971

of the guardian of the minor if he has a guardian. If the custodian has executed as provided in subsection (a) more than one instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

Guardian as successor custodian.

(d) If a person designated as custodian or as successor custodian by the custodian as provided in subsection (a) is not eligible, dies or becomes legally incapacitated before the minor attains the age of *eighteen (18)* years and if the minor has a guardian, the guardian of the minor shall be successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as provided in subsection (a), a donor, his legal representative of the custodian or an adult member of the minor's family may petition the court for the designation of a successor custodian.

Petition for removal, replacement, bond.

(e) A donor, the legal representative of a donor, a successor custodian, an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of fourteen (14) years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated, or, in the alternative, that the custodian be required to give bond for the performance of his duties.

Show cause order.

(f) Upon the filing of a petition as provided in this section, the district court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor."

Amending clause.

Section 14. Section 69-2701, R.C.M. 1947, is amended to read as follows:

Unlawful to sell or use fireworks.

"69-2701. **Fireworks prohibited and defined for the purposes of this act.** a. It shall be unlawful to sell, transport or use any fireworks within the state of Montana except as hereinafter provided.

"Fireworks" defined.

b. The term "fireworks" shall mean and include any combustible, or explosive composition, or any substance or combination of substances, or article prepared for the

HeinOnline -- 1971 vol. II 1573 1971

purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and shall include sky rockets, Roman candles, Daygo bombs, blank cartridges, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, sparklers or other fireworks of like construction and any fireworks containing any explosive of flammable compound or any tablets or other device containing any explosive substance. Nothing in this law shall be construed as applying to toy paper caps containing not more than twenty-five hundredths *(.25)* of a grain of explosive composition per cap, and to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, nor applying to the military or navy forces of the United States or of this state, or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, or theatrical, or athletic events.

Exemptions.

Sale of permissible fireworks lawful.

c. It shall be lawful for any individual, firm, partnership, corporation or association to possess for sale within the state, sell or offer for sale, at retail, or use, within the state of Montana, the permissible fireworks herewith enumerated.

Permissible fireworks defined.

Permissible fireworks shall include dangerous articles and, more specifically, shall include and be limited to the following, but specifically excluding sky rockets, Roman candles and Daygo bombs:

(1) Helicopter type spinners, total pyrotechnic composition not to exceed twenty *(20)* grams each in weight;

(2) Cylindrical fountains, total pyrotechnic composition not to exceed twenty-five *(25)* grams each in weight. The inside tube diameter shall not exceed *three-fourths (¾)* inch;

(3) Cone fountains, total pyrotechnic composition not to exceed fifty *(50)* grams each in weight;

(4) Wheels, total pyrotechnic composition not to exceed sixty *(60)* grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of driver tubes shall not be over *one-half (½)* inch;

HeinOnline -- 1971 vol. II 1574 1971

(5) Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed one hundred *(100)* grams each in weight;

(6) Sparklers and dipped sticks, total pyrotechnic composition not to exceed one hundred *(100)* grams each in weight. Pyrotechnic composition containing any chlorate shall not exceed five *(5)* grams;

(7) Firecrackers with soft casings, the external dimensions of which do not exceed one and one-half *(1½)* inches in length or one-quarter *(¼)* inch in diameter, total pyrotechnic composition not to exceed two *(2)* grains each in weight;

(8) Whistles without report, total pyrotechnic composition not to exceed forty *(40)* grams each in weight;

Unlawful for person under 18 to sell permissive fireworks.

It shall be unlawful for any individual under the age of *eighteen (18)* to possess for sale, sell or offer for sale, within the state of Montana, permissive fireworks herein enumerated.

Unlawful sale by wholesaler.

Transport lawful.

It shall be unlawful for any wholesaler to sell or offer for sale, within the state of Montana, fireworks except as herein defined. It shall be lawful for said wholesaler, however, to transport said fireworks within the state of Montana for sale outside of the state of Montana.

Seasonal sales—June 24 to July 5.

d. No person, firm or corporation shall offer fireworks of any kind as defined herein for sale at retail before the 24th day of June and after the 5th day of July.

e. It shall be unlawful for any individual, firm, partnership or corporation to discharge or cause to be discharged any pyrotechnics of any description whatever within the exterior boundaries of any state forest, or state park, or state recreation area."

Amending clause.

Section 15. Section 71-1525, R.C.M. 1947, is amended to read as follows:

Relative responsible for medical assistance.

"71-1525. **Relative's responsibility.** The provisions of other parts of Title 71, R.C.M. 1947, as amended, notwithstanding, the only relatives that can be held responsible for payment of medical assistance under the program are the husband or wife of the individual, the parents of children under age *eighteen (18)*, and the parents of blind or disabled persons over age *eighteen (18)*."

HeinOnline -- 1971 vol. II 1575 1971

Amending clause.

Section 16. Section 77-121, R.C.M. 1947, is amended to read as follows:

Officers of militia commissioned by governor.

Citizen.

More than 18 years of age—term of office.

"77-121. **Officers to be commissioned by the governor.** All commissioned officers of the organized militia of Montana shall be appointed and commissioned by the governor. No person shall be so appointed and commissioned unless he shall be a citizen of the United States and of this state, and more than *eighteen (18)* years of age. Every commissioned officer shall hold office under his commission until he shall have been regularly appointed and commissioned to another grade or office, or until he shall have been regularly retired, discharged, dismissed, or placed in the reserve."

Amending clause.

Section 17. Section 91-1702, R.C.M. 1947, is amended to read as follows:

Bonds required—administrators and executors.

"91-1702. **Bond of administrators and executors, form and requirement of — when not required.** Every person to whom letters testamentary or of administration are directed to issue must, before receiving them, execute a bond to the state of Montana, with two *(2)* or more sufficient sureties or a sufficient surety company, to be approved by the district court, or a judge thereof. In form, the bond must be joint and several, and the penalty must not be less than the value of the personal property and the annual rents and profits of real property belonging to the estate, nor more than twice the value of such personal property and rents and profits; provided that upon written request of all the heirs, devisees, or legatees and all being over *eighteen (18)* years of age and entitled to all of the estate upon distribution, the court may in its discretion fix the penalty of the bond at any sum less than the value of the personal property, and the annual rents and profits of the real property belonging to the estate; and provided further that if, at the time of hearing any application for letters testamentary or of administration, it satisfactorily appears to the court or judge that the assets of the estate for which such letters of administration or letters testamentary are sought do not warrant the necessity of a bond on the part of the applicant, the court or judge may in its discretion order such letters to issue without bond; but such administrator or executor may at any time afterward, if it appear from any cause necessary or proper, be required to file a bond as in other cases."

Exceptions.

HeinOnline -- 1971 vol. II 1576 1971

Section 18. Section 91-3302, R.C.M. 1947, is amended to read as follows: Amending clause.

"91-3302. **Petition for executor or administrator to make conveyance and notice of hearing.** On the presentation of a verified petition by the executor or administrator, or by any person claiming to be entitled to such conveyance from an executor or administrator, setting forth the facts upon which the claim is predicated, the court, or a judge thereof, shall appoint a time and place for hearing the petition, and shall order notice thereof to be served on the executor or administrator personally when he is not the petitioner, and a copy thereof served upon each known heir, or, in the event of minor or incompetent heirs, upon the duly appointed and qualified guardian for such incompetent or minor, not less than twenty (20) days prior to the date of said hearing; or the court may order notice by publication for four *(4)* successive weeks in such newspaper in the county as the court may designate, provided, however, that if such contract was of record at the date of the death of the person executing such contract, then, in that event, notice of such hearing may be given by serving such notice on the executor or administrator personally, when he is not the petitioner, and posting such notice in three *(3)* public places in the county where the court is held, for at least ten (10) days prior to the day fixed for the hearing; provided, further, that if the written consent of all the known heirs over the age of *eighteen (18)* years and the guardian, duly authorized, of all minor or incompetent heirs be obtained and filed in the court before which said hearing is pending, then no other or further notices shall be required."

Petition for conveyance.

Notice of hearing.

Service.

Publication.

Posting.

Written consent.

Section 19. Section 93-9912, R.C.M. 1947, is amended to read as follows: Amending clause.

"93-9912. **Appointment and meeting of commissioners.** Immediately upon making and entering the preliminary condemnation order the judge must meet with the respective parties, or their attorneys of record, for the purpose of appointing condemnation commissioners to ascertain and determine the amount to be paid by the plaintiff to each owner or other persons interested in such property by reason of the appropriation of such property. The court must thereupon appoint three (3) qualified, disinterested condemnation commissioners. One of such commissioners shall be nominated by the party or parties

Preliminary condemnation order—meeting of commissioners.

Court appoints three condemnation commissioners.

HeinOnline -- 1971 vol. II 1577 1971

plaintiff; one of such commissioners shall be nominated by the party or parties defendant. The third commissioner shall be the chairman and shall be nominated by the two *(2)* commissioners previously nominated, provided, however, that if said two *(2)* commissioners fail to make such choice at the time of their appointment, then such nomination shall be made by the presiding judge. Each commissioner shall possess the following qualifications: a citizen of the United States and over *eighteen (18)* years of age; that he is not more than seventy (70) years of age; that he is in possession of natural faculties, of ordinary intelligence and not decrepit; that he is possessed of sufficient knowledge of the English language; that he was assessed on the last assessment roll of a county within the judicial district in which the action is pending; that he has not been convicted of malfeasance in office, or any felony or other high crime; that he is not related within the sixth degree to any party; that he does not stand in the relation of guardian and ward, master and servant, debtor and creditor, or principal and agent, or partner or surety as to any party. At the time of such meeting and nominations there shall be filed with the court by each nominating party or judge an affidavit of the person so nominated stating substantially as follows: that he has formed no unqualified opinion or belief as to the compensation to be awarded in the proceeding or as to the fairness or unfairness of the plaintiff's offer for the lands and improvements of the defendants; and that he has no enmity against or bias in favor of any party and has not discussed, communicated or overheard or read any discussion or communication from any party relating to values of the lands in question or the compensation offered, demanded or to be awarded; that if selected as a condemnation commissioner he is willing to serve and will well and truly try the issues of compensation and a true decision render according to the evidence and in compliance with the instructions of the court; that he will not discuss the case with anyone except the other commissioners until a decision has been filed with the court.

Qualifications.

Affidavits required.

Immediately upon such nomination and appointment of commissioners the same shall proceed to meet at the time and place stated in the order appointing them, which time shall not be more than ten (10) days after the order of appointing, and proceed to examine the lands sought to be appropriated. At a time appointed by the judge and within said ten (10) day period they shall hear the allegations

Meeting.

Examination of lands.

Hearing.

HeinOnline -- 1971 vol. II 1578 1971

and evidence of all persons interested in each of the several parcels of land. Such hearing shall be attended by, and presided over by, the presiding judge who shall make all necessary rulings upon procedure and the admissibility of evidence. At the conclusion of the aforesaid hearing, the court or judge shall instruct the commissioners as to the law applicable to their deliberations and shall instruct them that their duty is to determine, solely upon the basis of said examination of lands, the evidence produced at the hearing or hearings and the instructions of the court, the following:

Court instructions.

1. The value of the property sought to be appropriated and all improvements thereon pertaining to the realty, and of each and every separate estate and interest therein; if it consist of different parcels, the value of each parcel and each estate or interest therein must be separately assessed.

Value of property.

2. If the property sought to be appropriated constitutes only a part of a larger parcel, the depreciation in value which will accrue to the portion not sought to be condemned, by reason of its severance from the portion sought to be condemned, and the construction of the improvements in the manner proposed by the plaintiff.

Depreciation in value of remainder.

3. Separately, how much the portion not sought to be condemned, and each estate or interest therein, will be benefited, if at all, by the construction of the improvements proposed by the plaintiff, and if the benefit shall be equal to the amount assessed under subdivision 2, the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefits shall be less than the amount assessed under subdivision 2, the former shall be deducted from the latter, and the remainder shall be the only amount allowed in addition to the value.

Benefit to remainder.

4. If the property sought to be condemned be for a railroad, the cost of good and sufficient fences along the line of such railroad, and the cost of cattle guards where fences may cross the line of such railroad.

Cost of fencing for railroad—cattle guards.

5. Where there are two (2) or more estates or divided interests in property sought to be condemned, the plaintiff is entitled to have the amount of the award, for said property first determined, as hereinbefore stated, as between plaintiff and all defendants claiming any interests therein; thereafter in the same proceeding the respective

Determination of respective rights.

HeinOnline -- 1971 vol. II 1579 1971

rights of each of such defendants in and to the award shall be determined by the commisisoners, under supervision and instruction of the court, and the award apportioned accordingly."

Approved March 18, 1971

CHAPTER NO. 424

An Act Relating to the Teaching Profession, Recognizing the Right of Teachers to Join Organizations of Their Choosing, Promoting Cooperation and Discussion Between School Boards and Teachers, Establishing Professional Negotiation Procedures, Recognizing Bargaining Representatives.

Be it enacted by the Legislative Assembly of the State of Montana:

"Professional negotiations act for teachers."

Section 1. **Short title.** Sections 1 through 14 of this act shall be known as the "Professional Negotiations Act for Teachers."

Purpose—achievement of high quality education.

Section 2. **Declaration of policy and purpose.** In pursuance of the duty imposed upon it by the constitution to provide a system of free public schools and to adopt all means necessary and proper to secure to the people the advantages and opportunities of education, the legislative assembly hereby declares that it recognized teaching as a profession which requires special educational qualifications and that to achieve high quality education it is indispensable that good relations exist between teaching personnel and their governing boards.

Policy—recognition of right to negotiate—teacher organizations.

It is, therefore, the policy of this state to recognize the rights of professional school employees to form, join, or assist professional employees' organizations to negotiate with their governing boards regarding the terms and conditions of professional service and to confer and consult in other matters for the purpose of establishing, maintaining, protecting and improving educational standards, and to establish procedures which will facilitate and encourage amicable settlement of disputes. It is further recognized that the authority of public school district boards of trustees is established by law and a district board of trustees has final authority for determining policies for the operation of public schools under its jurisdiction which are not inconsistent with law."

HeinOnline -- 1971 vol. II 1580 1971

Section 3. **Definitions.** As used in this act, unless the context clearly requires otherwise: Definitions.

(1) "Teacher" means an individual certificated in class 1, 2, 4 or 5 as provided in section 75-6006, R.C.M. 1947, but shall not include such certificated individuals who are not currently under contract to perform classroom teaching; however "teacher" shall include principals certificated in class 3 who so elect as provided in subsection (3); "Teacher."

(2) "Employer" means a school district as defined in section 75-6501, R.C.M. 1947. "Employer."

(3) "Appropriate unit" means all of the teachers employed by a single employer. Principals employed by an employer may elect to be included in the appropriate unit or may elect to establish a separate appropriate unit of principals; "Appropriate unit."

(4) "Board" means any public school board of trustees; "Board."

(5) "Strike" means any work stoppage by a teacher or teachers which interferes with the operation of a school or schools, which includes abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, for the purpose of inducing, influencing or coercing an employer to change any terms or conditions relating to the employer-teacher relationship; "Strike."

(6) "Teacher organization" means any organization of employees which includes teachers in membership; "Teacher organization."

(7) "Representative of teachers" means a representative elected pursuant to the provisions of section 7.

Section 4. **Teachers' rights.** It shall be lawful for teachers to organize, form, join or assist in employee organizations or to engage in lawful activities for the purpose of collective bargaining or to bargain collectively through representatives of their own free choice. Teachers shall also have the right to refrain from any or all such activity but shall be bound by a professional negotiations agreement involving the appropriate unit of which they are a member. It shall be the duty of an employer to meet and confer on any proposal advanced by a representative of teachers, or by a teacher or groups of teachers if no representative of teachers has been selected, if such pro- Right to organize for collective bargaining. Duty of employer to confer on proposals.

HeinOnline -- 1971 vol. II 1581 1971

posal does not endeavor to amend the terms of a professional negotiations agreement then in effect, and nothing in this act shall be construed to diminish such duty. However, a representative of teachers selected as provided by this act, shall be the exclusive representative of all the teachers in the appropriate unit to meet, confer or negotiate upon all matters permitted in section 5 and such teachers shall not negotiate individually.

Exclusive representation.

Duty of employer and teachers—professional negotiations.

Section 5. **Duty to negotiate and bargain.** It shall be the duty of all employers acting as a board, or acting by and through a bargaining agent designated or employed by the employer, and all teachers, or a representative of teachers, to meet and confer for professional negotiations purposes at the request of either, except as provided by this act, to discuss matters relating directly to the employer-teacher relationship such as salary, hours and other terms of employment, and to negotiate and bargain for agreement on such matters. The matters of negotiation and bargaining for agreement shall not include matters of curriculum, policy of operation, selection of teachers and other personnel, or physical plant of schools or other school facilities, however nothing herein shall limit the obligation of employers to meet and confer as provided in section 4. Teachers under a professional negotiations agreement, or the representative of teachers, shall not demand that professional negotiation conferences begin until after November 1 of the last year such agreement is effective, but, if professional negotiation is desired, must serve written notice of intention to negotiate collectively upon the employer not later than November 1 of such year stating specifically the items to be negotiated. If such notice is not served, the employer shall not be required to negotiate any terms of the employer-teacher relationship for the following school year. Professional negotiation agreements in effect at the time this act becomes effective shall continue to their expiration. No professional negotiation agreement shall extend for a term of more than two (2) years.

Salary, hours, terms of employment.

Exclusions.

Limitation.

Notice of intention to negotiate collectively.

Agreement limit—two years.

Employers—prohibited acts.

Section 6. **Unfair practices.** (1) Employers, their agents or representatives, are prohibited from the following unlawful acts:

Interference.

(a) Interfering with, restraining or coercing teachers in any manner in their right of self-organization or selection of a representative;

HeinOnline -- 1971 vol. II 1582 1971

(b) Discriminating in regard to conditions of employment when the purpose is to discourage membership in a teacher organization; Discrimination.

(c) Refusing to meet, confer or negotiate in good faith with teachers or the duly elected representative of an appropriate unit of teachers or with a panel selected upon impasse as provided in section 9, to discuss or negotiate upon any matter dealing directly with the employer-teacher relationship as provided in section 4; Refusal to negotiate in good faith.

(d) Refusing to reduce to writing and sign a professional negotiation agreement arrived at through negotiation and discussion; Refusal to sign agreement.

(2) Teachers or teacher organizations, their agents or representatives, are prohibited from the following unlawful acts: Teachers—prohibited acts.

(a) Restraining or coercing teachers in violation of their rights guaranteed under section 4 or interfering in the conduct of an election as provided in section 6. Coercion.

(b) Refusing to reduce to writing or sign a professional negotiation agreement arrived at through negotiation and discussion; Refusal to sign.

(c) Instituting, maintaining or participating in a strike or boycott against any employer, or picketing any school or school facility to further or to induce a strike or boycott because of any controversy; engaging in, or inducing or encouraging any individual to engage in, a strike or refusal to handle goods or perform services or threatening, coercing or restraining any individual where the object thereof is to force or require any employer to discontinue doing business with such individual or to force or require an employer to recognize a teacher representative not selected as provided in section 7; Strike, boycott, picketing.

(d) Refusing to meet, confer or bargain in good faith with an employer or its agents or with a panel selected upon impasse as provided in section 9, to discuss or bargain upon any matter dealing directly with the employer-teacher relationship as defined in section 5. Refusal to bargain in good faith.

Section 7. **Selection of teachers' representative.** Any teacher organization whose membership includes a majority of the teachers in the appropriate unit, as verified by affidavit of the secretary of the teacher organization Recognition by employer of teacher representative.

HeinOnline -- 1971 vol. II 1583 1971

delivered to the employer, shall be recognized by the employer as the representative of teachers in the appropriate unit, however, (1) if the membership of more than one (1) teacher organization desiring to represent the appropriate unit includes a majority of the teachers in the appropriate unit or (2) if no teacher organization's membership includes a majority of the teachers in the appropriate unit but thirty (30) percent or more of the teachers in the unit have petitioned the board, in writing, for a particular representative, or (3) if the employer questions whether a majority of the teachers in the appropriate unit desire the representation of a teacher organization determined by organization membership and applies for an election, the board or his representative shall conduct an election by secret ballot to determine the representative to represent the teachers in the appropriate unit. The board shall give not less than ten (10) nor more than thirty (30) days' written notice of the time and place of such election by mailing to all teachers in the appropriate unit and by posting in the school or schools where such teachers teach. The board shall include on the ballot the names of all teacher organizations verified by affidavit to include a majority of the teachers in the appropriate unit, or if no teacher organization claims a majority of such teachers, then the names of all prospective representatives offered by the petition of thirty (30) percent or more of the teachers in the unit received by the board not less than five (5) days prior to the date for election, and in either event the choice of "No representative." One candidate must receive a majority of the votes cast to be recognized as the representative of the teachers in the appropriate unit. If "No representative" receives a majority, no representative shall be recognized. If two (2) or more prospective representatives are named on the ballot and no choice receives a majority, a second election, after notice, shall be conducted naming the two (2) proposed representatives receiving the greatest number of votes in the first election. A determination under this section by secret ballot shall remain in effect for one (1) year after the date of the election and thereafter until the employer or thirty (30) percent or more of the teachers in the appropriate unit shall apply to the board for another election.

Election by secret ballot.

Notice—mailing and posting.

Ballot requirements.

"No representative."

Majority vote.

Second election procedure.

Section 8. **Ratification of agreements.** All professional negotiation agreements reduced to writing and executed

Ratification of agreements.

HeinOnline -- 1971 vol. II 1584 1971

by an employer and the representative of teachers must be ratified by a majority of the teachers in the appropriate unit before becoming binding upon the parties. If a professional negotiation agreement is executed by a professional negotiation agent of the employer it must be ratified by a majority of the board of the employer.

If no agreement reached after 50 days—submission to three member panel.

Section 9. **Professional negotiation.** If, after fifty (50) days following the commencement of negotiation between an employer, and a negotiating agent designated by the employer, and teachers, or a representative of teachers, an agreement cannot be reached upon any proper issue or issues presented, either party may notify the other in writing that it desires to present the issue or issues to a panel of three (3) persons, resident of the state in which the employer is located, one (1) to be selected by the employer, one (1) to be selected by the representative of teachers, and the third to be selected by the first two (2) named, who shall act as chairman of the panel. Each party shall select its panel member within ten (10) days after such notification. If the members selected by the parties are unable to agree upon the third member within ten (10) days from the date of their selection, the senior district judge of the county in which the employer is located shall submit the names of five (5) persons to the parties at impasse and each party shall in the presence of such senior district judge alternately strike one (1) name until only one (1) shall remain. The teachers or representative of teachers shall strike the first name. The person so remaining shall be the third panel member. Negotiation shall thereupon continue before the panel. The panel may take oral testimony under oath and shall consider all documents and arguments presented to it. If an agreement has not been reached by the parties within twenty (20) days after presentation before the panel has commenced, the panel shall make findings of fact and recommendations concerning the issues discussed and shall serve a copy upon both parties within five (5) days after such twenty (20) day period. Within five (5) days following mailing of such findings and recommendations, the parties must notify the county superintendent of schools and each other whether or not they accept the findings and recommendations of the panel, and unless both parties do so accept, the panel shall publicize its findings of fact and recommendations in such manner as it deems advisable. Not less than five (5) days nor more than ten (10) days

Selection.

District judge—submission of five names—procedure.

Duties of panel.

Findings and recommendations.

Service on parties.

Notice of acceptance or rejection.

Publication.

HeinOnline -- 1971 vol. II 1585 1971

Notice. Further negotiation. Expenses.

after such publication of findings of fact and recommendations of the panel, the parties shall again notify the county superintendent of schools and each other whether or not they accept the recommendations of the panel. The parties may further negotiate and settle the issues at any time before or after the recommendations of the panel. Each party shall pay the expenses of its selected member of the panel and both parties shall share equally the expenses of the third member of the panel and the publication costs.

Right to hire and discharge for cause.

Section 10. **Employer's rights under other state laws.** Nothing contained in this act shall impair the employer's right to hire teachers or to discharge teachers for cause consistent with other state laws.

Right to court review.

Section 11. **Court review.** An employer, a duly elected representative of teachers, or if no representative of teachers has been selected, then a teacher or group of teachers, may institute proceedings in the district court for the county in which the employer is located to restrain the commission of any unlawful or unfair practice as provided in this act. Any teacher acting in violation of any court order to enforce the provisions of this act shall be subject to suspension without pay or dismissal at the discretion of the employer.

Penalties—violation of court order.

Violations—forfeiture of salary.

Section 12. **Penalty for violation.** Any teacher who violates the provisions of section 6 (2) (c) shall forfeit his salary for every day that he is in violation.

Public sessions. Closed sessions.

Section 13. **Planning for negotiating sessions closed to public.** Professional negotiating sessions between employers and teachers, or their representatives, may be open to the public, but meetings of school boards wherein professional negotiating proposals are discussed prior to any professional negotiating sessions shall be closed to the public.

Validation.

Section 14. This act shall not operate so as to annul, modify or preclude the renewal or continuation of any lawful agreement heretofore or hereafter entered into between a board and a teacher organization. This act shall not preclude the modification of any existing agreement upon the request of either the board or the teacher organization in accordance with the procedure provided in this act.

HeinOnline -- 1971 vol. II 1586 1971

Section 15. **Severability.** This act shall be severable, and should any part or provision hereof be declared unconstitutional by a competent court, such declaration will not invalidate the remaining provisions hereof. Severability clause.

Approved March 18, 1971

CHAPTER NO. 425

An Act to Amend Section 93-1304, R.C.M. 1947, Exempting From Jury Duty a Person Holding a State Public Office, and Deleting the Reference to an Almshouse.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-1304, R.C.M. 1947, is amended to read as follows: Amending clause.

"93-1304. **Who exempt from jury duty.** A person is exempt from liability to act as juror if: Exemptions from jury duty.

1. A judicial, civil or military officer of the United States or of this state;

2. A person holding a *public office in the state, a* county, township, or town;

3. An attorney at law in practice;

4. A minister of the gospel, or a priest of any denomination, or editor, following his profession;

5. A teacher in a university, college, academy or school;

6. A practicing physician, dentist, or druggist actually engaged in the business of dispensing medicines, or a regularly licensed embalmer or undertaker;

7. An officer, keeper or attendant of *a* hospital, asylum, or other charitable institution;

8. Engaged in the performance of duty as officer or attendant of the state prison, penitentiary, or of a county jail;

9. An express agent, mail carrier, superintendent, employee or operator of a telegraph line doing general telegraph business in the state;

HeinOnline -- 1971 vol. II 1587 1971

10. An active member of the national guard of Montana, or an active member of a fire department of any city or town of this state. The number of firemen hereby exempted must not exceed twenty-eight (28), including officers for each company organized; and such members from each company must be selected from the roll of such company, according to the seniority of membership, and a list containing the names of such persons must be made out by the secretary of each company and filed with the clerk of the board of county commissioners on the first Mondays of December, March, June and September, and any failure to file the list hereby required is considered a waiver of such exemption.

11. A superintendent on a railroad.

12. A nurse engaged on a case or a person caring directly for one or more children.

Court must discharge.

The court must discharge a person from serving as a trial juror, in either of the following cases:

Incompetent person.

Where it satisfactorily appears that he or she is not competent; and,

Exempt person.

Where it satisfactorily appears that he or she is exempt and claims the benefit of exemption.''

Approved March 18, 1971

CHAPTER NO. 426

An Act to Amend Sections 32-3922, 32-3925, 32-3926, 32-3927 and 32-3929, R.C.M. 1947, Enacted as Chapter 212, Laws of 1969, Providing for Payment of Direct Losses of Displaced Persons Resulting from Moving, Discontinuing a Business or Farm, Payment of Expenses in Seeking Replacement, Providing for Amounts and Limits of Payments, Providing for Matching Funds to Certain Dwellings not Eligible Under Certain Provisions of this Act and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-3922, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1588 1971

"32-3922. **Highway commission to adopt rules and regulations.** The highway commission is authorized to adopt rules and regulations to implement the payment of expenses as authorized by this act."

Highway commission—duty to adopt rules.

Section 2. Section 32-3925, R.C.M. 1947, is amended to read as follows:

Amending clause.

"32-3925. **Compensation for moving expense as part of cost of construction — fixed payments in lieu of actual expense — dwelling — business or farm operation.** (a) As a part of the cost of construction the commission may compensate a displaced person for his actual and reasonable expense in moving himself, family, business or farm operation, including moving personal property, *actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the state, and actual reasonable expenses in searching for a replacement business or farm.*

Commission may compensate displaced person for moving expenses.

Limitation on amount.

(b) Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subdivision in lieu of the payments authorized by subdivision (a) of this section may receive a moving expense allowance, determined according to a schedule established by the commission not to exceed *three* hundred dollars *($300),* and in addition a dislocation allowance of *two* hundred dollars *($200).*

Dwelling—election to take moving expense allowance.

Maximum $300.

Dislocation allowance—$200.

(c) Any displaced person who moves or discontinues his business or farm operation who elects to accept the payment authorized by this subdivision in lieu of the payment authorized by subdivision (a) of this section, may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, *except that such payment shall not be less than two thousand five hundred dollars ($2,500 nor more than ten thousand dollars ($10,000).* In the case of a business, no payment shall be made under this subdivision unless the commission is satisfied that the business cannot be relocated without a substantial loss of patronage, and is not a part of a commercial enterprise having at least one (1) other establishment, not being acquired, which is engaged in the same or similar business. For purposes of this subdivision, the term "average annual net earnings" means one-half (½) of any net earnings of the business

Business or farm operation—fixed relocation payment.

Minimum—$2,500.

Maximum—$10,000.

Determination by commission.

"Average annual net earnings" defined.

HeinOnline -- 1971 vol. II 1589 1971

or farm operation, before federal and state income taxes, during the two (2) taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project *or during such other period as the commission determines to be more equitable for establishing such earnings,* and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such two (2) year period. To be eligible for the payment authorized by this subdivision the business or farm operation must make its state income tax returns available and its financial statements and accounting records available for audit and confidential use to determine the payment authorized by this subdivision."

Compensation.

Eligibility.

Income tax returns —records.

Amending clause. Section 3. Section 32-3926, R.C.M. 1947, is amended to read as follows:

"32-3926. **Additional payment for realty with qualified dwelling — period of occupancy — amount — owner must subsequently purchase dwelling.** (a) In addition to the payments authorized by section 32-3925, the commission, as a part of the cost of construction, may make *payments* to the owner of real property acquired for a project on the state highway systems which is improved with a single, two (2) or three (3) family dwelling, actually owned and occupied by the owner for not less than *one hundred eighty (180) days prior to the initiation of negotiations for the acquisition of the property.*

Commission may make payments to owner of dwellings.

Occupancy.

Maximum $15,000. (b) *A payment* not to exceed *fifteen* thousand dollars *($15,000),* shall be the amount, if any, which, when added to the acquisition payment, equals the *reasonable* price required for a comparable dwelling determined, in accordance with standards established by the commission, to be a decent, safe, and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and place of employment and available on the market.

Financing costs payments— replacement dwelling. *(c) A payment, if any, which will compensate such displaced person for any increased costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such payment shall be made only if the dwelling acquired by the state was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred,*

Conditions.

Mortgage.

HeinOnline -- 1971 vol. II 1590 1971

eighty (180) days prior to the initiation of negotiations for the acquisition of such dwelling. Such payment shall be equal to the excess in the aggregate interest and other debt service cost of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling under the remainder term of the mortgage on the acquired dwelling reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

Computation.

Discount rate.

(d) The payment of reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incidental to the purchase of replacement dwelling but not including prepaid expenses.

Closing costs payments.

(e) Such payment shall be made only to a displaced owner who purchases and occupies a dwelling, that meets standards established by the commission, within one (1) year subsequent to the date on which he is required to move from the dwelling acquired for the project."

Purchase of dwelling within one year.

Section 4. Section 32-3927, R.C.M., 1947, is amended to read as follows:

Amending clause.

"32-3927. **Additional payment for realty with other dwelling—period of occupancy—amount.** (a) In addition to the payment authorized by section 32-3925, as a part of the cost of construction, the commission may make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under section 32-3926, which dwelling was actually and lawfully occupied by such individual or family for not less than ninety (90) days prior to the first written offer for the acquisition of such property.

Payment to displaced individual moving from dwelling.

Occupancy.

(b) Such payment, not to exceed *four* thousand dollars *($4,000)*, shall be the additional amount which is necessary to enable such individual or family to lease or rent for a period not to exceed *four (4)* years, or to make the down payment on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities, *except that if the amount of the down payment to purchase exceeds two thousand dollars ($2,000), such individual or family must equally match any such amount in*

Maximum $4,000.

Lease or rent to 4 years.
Down payment.

Individual must match amount in excess of $2,000.

HeinOnline -- 1971 vol. II 1591 1971

excess of two thousand dollars ($2,000) in making the down payment.''

Amending clause. Section 5. Section 32-3929, R.C.M., 1947, is amended to read as follows:

Rules and regulations. "32-3929. **Rules and regulations.** The commission is authorized to adopt rules and regulations to implement this act, and such other rules and regulations relating to highway relocation assistance as may be necessary or desirable under federal laws and the rules and regulations promulgated thereunder. Such rules and regulations shall include provisions relating to:

Required provisions.

Moving expense allowance. (a) A moving expense allowance, as provided in subdivision (b) of section 32-3925, for a displaced person who moves from a dwelling, determined according to a schedule, not to exceed *three* hundred dollars *($300);*

Dwelling conditions. (b) The *conditions* for decent, safe, and sanitary dwellings;

Procedure for determinations. (c) Procedure for an aggrieved displaced person to have his determination of eligibility or amount of payment reviewed by the commission; and

Eligibility. (d) Eligibility of displaced persons for relocation assistance payments, the procedure for such persons to claim such payments and the amounts thereof.''

Effective immediately. Section 6. This act shall be effective on passage and approval.

Approved March 18, 1971.

CHAPTER NO. 427.

An Act Providing for Nonprofit Organizations to Establish District Youth Guidance Homes for Delinquent and Other Children; Providing for Committal of Juvenile Delinquents and Other Juveniles to District Youth Guidance Homes; Providing Authority to Department of Institutions to Make Rules and Regulations for the Operation of Such Homes.

Be it enacted by the Legislative Assembly of the State of Montana:

District youth guidance home program established. Section 1. The legislative assembly, in recognition of the wide and varied needs of juvenile delinquents and

HeinOnline -- 1971 vol. II 1592 1971

juveniles tending toward delinquency of this state and of the desirability of meeting these needs on a community level to the fullest extent possible, and in order to reduce the need for custodial care in existing state institutions, establishes by this act a District Youth Guidance Home program to provide facilities and services for the rehabilitation of juvenile delinquents and juveniles tending toward delinquency and establishes a program to provide such facilities and services through local nonprofit corporations and the department of institutions.

Section 2. **Definitions:** Definitions.

(a) Juvenile delinquent. A delinquent child is defined in section 10-602, R.C.M., 1947. Juvenile delinquent.

(b) A juvenile tending toward delinquency. Any person under the age of twenty-one (21) years over whom the juvenile court may have jurisdiction under section 10-603, R.C.M., 1947, and who a district court judge may find to have committed any of the acts of a delinquent child as defined by section 10-602, R.C.M., 1947, but whom in the court's discretion has not yet become a delinquent child as therein defined. Juvenile tending toward delinquency.

(c) District Youth Guidance Home. A District Youth Guidance Home is a family-oriented residence established in a judicial district of the state of Montana as an alternative to existing state institutions, the function of which is to provide a home and guidance through adult supervision for juvenile delinquents and juveniles tending toward delinquency. District youth guidance home.

Section 3. Nonprofit corporations or associations in any judicial district may be formed or organized for the purpose of establishing under this act District Youth Guidance Homes and to receive from the department of institutions and other governmental units such services, facilities and funds as the department or other governmental units may be authorized to provide by law. Nonprofit corporations or associations may establish.

Section 4. (1) The department of institutions shall be authorized to contract with nonprofit corporations or associations, to provide facilities and services for juvenile delinquents and juveniles tending toward delinquency in District Youth Guidance Homes, and is authorized to expend such monies as shall be appropriated or available therefor. Department of institutions authorized to contract. Expenditures.

HeinOnline -- 1971 vol. II 1593 1971

Governmental units may provide funds and facilities.

(2) Governmental units, including but not limited to counties, municipalities, school districts, or state institutions of higher learning are hereby authorized, at their own expense, to provide funds, materials, facilities and services for District Youth Guidance Homes.

District judge may place juveniles.

Section 5. A district judge is hereby authorized in his discretion to place a juvenile delinquent or juvenile tending toward delinquency to said District Youth Guidance Home for any period of time up to the child's twenty-first birthday subject to the approval of its sponsoring nonprofit corporation or association.

Person under 21—petition for placement.

Section 6. Any person under the age of twenty-one (21) years may petition the district court of a district in which a District Youth Guidance Home has been established to be placed to a District Youth Guidance Home for any period of time up to said person's twenty-first birthday.

Court retains jurisdiction.

Section 7. The district court placing a juvenile or juvenile tending toward delinquency to a District Youth Guidance Home shall retain continuing jurisdiction over said juvenile until said juvenile becomes twenty-one (21) years of age or is otherwise discharged by order of the court.

District judge may require payment of charges by parents.

Section 8. A district judge placing a juvenile delinquent or a juvenile tending toward delinquency to a District Youth Guidance Home may, if the parent or parents of the juvenile are financially able, without undue hardship, require the parents or parent to pay to the District Youth Guidance Home a per diem charge not to exceed the per diem charge established by the department of institutions for each child placed to the Montana Children's Center.

Department authority—aftercare placement.

Section 9. The department of institutions is hereby authorized as part of its aftercare program to place a juvenile delinquent in a District Youth Guidance Home subject to the approval of its sponsoring nonprofit corporation or association.

Director shall adopt rules and regulations.

Section 10. The director of the department of institutions shall have power to adopt reasonable rules, regulations and standards to carry out the administration and purposes of this act.

HeinOnline -- 1971 vol. II 1594 1971

Application—federal-aid—other assistance.

Section 11. The department of institutions is hereby authorized to make application for and to receive federal-aid money or other assistance which might now or hereafter become available for programs in the nature of the one created by this act.

Severability clause.

Section 12. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If part of this act is invalid in one (1) or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 18, 1971.

CHAPTER NO. 428.

An Act Amending Section 10-622, R.C.M., 1947, Relating to Appointment, Removal, Salaries and Qualifications of Probation Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 10-622, R.C.M., 1947, is amended to read as follows:

District judge may appoint chief probation officer.

"10-622. **Probation officers—appointments—removal—salaries.** In every judicial district of the state of Montana the judge thereof having jurisdiction of juvenile matters may appoint one (1) discreet person of good moral character, who shall be known as the chief probation officer of such district and who shall hold his office until removed by the court. *Preference in appointment shall be given to any person who possesses the following qualifications:*

Qualifications.

(1) a bachelor's degree from an accredited college or university in the behavioral sciences, or

(2) a bachelor's degree from an accredited college or university in some subject other than the behavioral sciences, and three (3) years of experience in work of a nature related to the duties of the probation department as set forth in section 10-623.

Compensation.

Such officer shall receive for his services such sum as shall be specified by the court upon appointment, provided

HeinOnline -- 1971 vol. II 1595 1971

that the judge of the district court may employ him on a yearly salary not to exceed *ten* thousand *two hundred* dollars *($10,200)*, or on a per diem basis *at the rate of forty dollars ($40) per day* for the time actually and necessarily employed in performing the duties of the office. The salary of such officer shall be apportioned among and paid by each of said counties in which said officer shall be appointed to act, in proportion to the assessed valuation of such counties for the year then current, except that where such official is appointed for one (1) county, his salary shall be paid by that county.

Apportionment among counties.

Appointment of deputies.

The judge having jurisdiction of juvenile matters may also appoint such additional persons *giving preference to persons having the qualifications suggested for appointment as the chief probation officer* to serve as deputy probation officers as the judge deems necessary; their salaries to be fixed by the judge at the time of appointment, provided that such salaries shall not exceed ninety percent (90%) of the salary of the chief probation officer.

Reimbursement for expenses.

For all necessary travel incident to his official duties in connection with the investigation, supervision, and transportation of children, the probation officer shall, in addition to his official salary, be reimbursed for actual expenses incurred."

Approved March 18, 1971.

CHAPTER NO. 429.

An Act to Convert Overhead Existing Electrical and Communication Facilities to Underground Locations by Special Improvement Districts and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Short title.** This act shall be known and cited as the "Undeground Conversion of Utilities Law".

Purpose— conversion of overhead facilities to underground locations.

Section 2. **Legislative purpose.** The legislature finds that in many areas of the state, landowners, cities, town, counties, rural electric cooperatives and public utilities desire to convert existing overhead electric and communication facilities to underground locations by means of

HeinOnline -- 1971 vol. II 1596 1971

special improvement district proceedings. The legislature hereby declares that a public purpose will be served by providing a procedure to accomplish such conversion and that it is in the public interest to provide for such conversion by proceedings taken pursuant to this chapter, whether such areas be within the limits of a city or town or within a county.

Definitions.

Section 3. **Definitions.** As used in this chapter, the following words and phrases and any variations thereof shall have the following meaning:

"Communication service."

"Communication service" means the transmission of intelligence by electrical means, including, but not limited to, telephone, telegraph, messenger-call, clock, police, fire alarm and traffic control circuits or the transmission of standard television or radio signals.

"Electrical service."

"Electrical service" means the distribution of electricity for heat, light or power.

"Convert" or "conversion."

"Convert" or "conversion" means the removal of all or any part of any existing overhead electric or communications facilities and the replacement thereof with underground electric or communication facilities constructed at the same or different locations.

"Electric or communication facilities."

"Electric or communication facilities" means any works or improvements used or useful in providing electric or communication service, including, but not limited to, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cut-outs, switches, capacitors, meters, communication circuits, appliances, attachments, and appurtenances. "Electric facilities" shall not include any facilities used or intended to be used for the transmission of electric energy at nominal voltages in excess of twenty-five thousand (25,000) volts.

"Overhead electric or communication facilities."

"Overhead electric or communication facilities" means electric or communication facilities located, in whole or in part, above the surface of the ground.

"Underground electric or communication facilities."

"Underground electric or communication facilities" means electric or communication facilities located, in whole or in part, beneath the surface of the ground.

"Public utility."

"Public utility" means any public or private person, corporation or cooperative that provides electric or communication service to the public by means of electric or

HeinOnline -- 1971 vol. II 1597 1971

communication facilities and shall include any special improvement district that provides electric or communication service to the public by means of electric or communication facilities.

"Governing body." "Governing body" means the board of county commissioners or city council, as may be appropriate, depending on whether the special improvement district is located in a county or within a city or town.

"Ordinance." "Ordinance" means resolution where the governing body acts by resolution and vice versa.

Governing bodies authorized to create special improvement districts. Section 4. **Powers conferred.** The governing body of every county is hereby authorized and empowered to create special improvement districts under this chapter within the unincorporated portion of such county, and the governing body of every city and town is hereby authorized and empowered to create special improvement districts under this chapter within its territorial limits. Said special improvement districts shall provide for the conversion of existing overhead electrical and communication facilities to underground locations and the construction, reconstruction or relocation of any other electric or communication facilities which may be incidental thereto, pursuant to the provisions of this chapter; provided, however, that any such special improvement district shall include an area having a frontage of not less than one thousand (1,000) feet upon a public street, road, highway or utilities easement along which overhead electric or communication facilities are located.

Conversion to underground locations.

Frontage area not less than 1,000 feet required.

Apportionment of costs and expenses. Section 5. **Basis of assessments.** Whenever any improvement authorized to be made by any governing body by the terms of this chapter is ordered, the governing body shall provide for the apportionment of the cost and expenses thereof as in their judgment may be fair and equitable in consideration of the benefits accruing to the abutting, adjoining, contiguous and adjacent lots and land and to the lots and lands otherwise benefited and included within the special improvement district formed. Each lot and parcel of the land shall be separately assessed for the cost and expenses thereof in proportion to the number of square feet of such lands and lots abutting, adjoining, contiguous and adjacent thereto or included in the special improvement district, and in proportion to the benefits derived to such property by said

Assessment of lands.

HeinOnline -- 1971 vol. II 1598 1971

improvements. The entire cost of the improvement may be assessed against the benefited property as herein provided, or if money for paying part of such cost is available from any other source, the money so available may be so applied and the remaining cost so assessed against the benefited property. The cost and expenses to be assessed, as herein provided for, shall include the cost of the improvement, engineering and clerical service, advertising, cost of inspection, cost of collecting assessments, cost of easements, and interest upon bonds, if issued, and for legal services for preparing proceedings and advising in regard thereto. Fee lands and property of the state or federal government shall not be considered as lands or property benefited by any improvement district and shall not be subject to assessment for the payment of any of the cost or expense of such improvement.

Determination of costs and expenses.

State and federal property exempt.

Section 6. **Resolution for cost and feasibility study.** Any governing body may, on its own initiative or upon a petition signed by at least sixty percent (60%) of the property owners owning at least sixty percent (60%) of the assessable land of any proposed district requesting the creation of a special improvement district, as provided for in this chapter, pass a resolution at any regular or special meeting declaring that it finds that the special improvement district is in the public interest. The governing body shall make a finding that the formation of the special improvement district, for the purposes set out in this chapter, will promote the public convenience, necessity and welfare. The resolution shall state that the costs and expenses will be levied and assessed upon the property benefited and further request that each public utility serving such area by overhead electric or communication facilities shall, within one hundred twenty (120) days after the receipt of the resolution, make a study of the cost of conversion of its facilities in such area to underground service. The report of said study shall be provided to the governing body and made available for inspection in the office of the governing body and each public utility. The resolution of the governing body shall require that each public utility be provided with the name and address of the owner of each parcel or lot within the proposed improvement district, if known, and if not known, the description of the property and such other matters as may be required by the public utilities in order to perform the work involved in the cost

Procedure.

Petition.

Resolution.

Findings.

Public utility cost study.

Report.

Information.

HeinOnline -- 1971 vol. II 1599 1971

study. The resolution shall further state the area in square feet of each lot or parcel within the proposed conversion service area.

Report shall include cost estimate and feasibility recommendations.

Section 7. **Costs and feasibility report.** The public utility report shall set forth an estimate of the total underground conversion costs and shall also indicate the costs of underground conversion of facilities of the public utility located within the boundaries of the various parcels or lots then receiving service. The report shall also contain the public utility's recommendations concerning the feasibility of the project for the district proposed insofar as the physical characteristics of the district are concerned. The report shall make recommendations by the public utility concerning inclusion or exclusion of areas within the district or immediately adjacent to the district. The governing body shall give careful consideration to the public utility's recommendations concerning feasibility, recognizing their expertise in this area, and may amend the boundaries of the proposed improvement district, provided that the costs and feasibility report of the public utility contains a cost figure on the district as amended, or it may request a new cost and feasibility report from the public utility concerned on the basis of the amended district. Should a delay result in a significant increase of the estimated conversion costs, new hearings shall be held on the creation of the district. In the event an increase of ten percent (10%) or less results from delay, only the hearing on the assessments need be held again.

Consideration.

Amend boundaries.

Report on amended district.

Hearings.

Resolution—intention to create.

Section 8. **Resolution declaring intention to create district.** On the filing with the clerk of any governing body of the cost and feasibility report by the public utility, as hereinbefore provided, and after considering the same, the governing body may, at any regular or special meeting, pass a resolution declaring its intention to create a special improvement district. The resolution shall state that the costs and expenses of the district created are, except as otherwise provided for, to be levied and assessed upon the abutting, adjoining, and adjacent lots and land along or upon which improvements are to be made, and upon lots and lands benefited by such improvements and included in the special improvement district created; that it is the intention of the governing body to make such improvement which will promote pub-

HeinOnline -- 1971 vol. II 1600 1971

lic convenience, necessity and welfare; and shall further state the area and boundaries of the proposed improvement district, the character of the proposed improvement, the estimated total cost of the same, and the intention of the governing body to hold a hearing on the proposed improvement.

Section 9. **Contents of notice of resolution and hearing on protests.** Following the passage of the resolution in section 8, the governing body shall cause notice of the resolution and a hearing on any protests to the proposed improvement to be given in the manner provided in section 10. Such notice shall: (1) Declare that the governing body has passed a resolution of intention to create a special improvement district. (2) Describe the boundaries or area of the district with sufficient particularity to permit each owner of real property therein to ascertain that his property lies in the district. (3) Describe in a general way the proposed improvement, specifying the streets or property along which it will be made and the nature of the benefits to the property within the district. (4) State the estimated cost as determined from the cost and feasibility report, and the estimated cost of engineering, clerical service, easements, advertising, inspection, collection of assessments, interest upon bonds, and legal services for preparing proceedings and advising in regard thereto, if applicable. (5) State that it is proposed to assess the real property in the district to pay all of the cost of the improvement according to the square footage of and the benefits to be derived by each tract, block, lot and parcel of land within the district. (6) State the time and place at which the governing body will hear and pass upon all protests that may be made against the making of such improvements, or the creation of such district or the benefits to be derived by the real property in the district. (7) State that all property owners liable to be assessed for such work and desiring to make a protest may submit, in writing, such protest to the governing body by a specified date not less than fifteen (15) days from the first day of publication of such notice.

Notice of resolution and hearing.

Requirements.

Section 10. **Notice of public hearing on proposed improvement.** Notice shall be published in full five (5) times in a daily newspaper or once in a weekly newspaper of general circulation in the county, city or town in which

Publication of notice.

HeinOnline -- 1971 vol. II 1601 1971

Mailing.

said district is located. A copy of such notice shall be mailed by the governing body to each owner of land within the proposed district whose property will be assessed for the cost of the improvement. The address to be used for said purpose shall be that last appearing on the real property assessment rolls of the county wherein said property is located. Mailed notices and the published notice shall state where a copy of the resolution will be available for inspection by any interested parties.

Owners may file written protest.

Section 11. **Protests against proposed work and areas to be included in the district.** At any time within the time specified in the notice, any owner of property liable to be assessed for said work may make written protest against the making of such improvements, or the creation of such district or the benefits to be derived by the real property in the district. Protests in writing must be delivered to the clerk of the governing body not later than 5:00 p.m., of the last day within said period, and said clerk shall endorse thereon the date and hour of its receipt by him.

Hearings.

Adjournment.

New report.

Section 12. **Public hearing on creation of special improvement district.** At the time and place specified in the notice, the governing body shall meet and shall proceed to hear and pass upon all protests. Such hearing may be adjourned from time to time to a fixed future time and place. If at any time during the hearings it shall appear to the governing body that changes in the proposed improvements or the proposed district should be made which, after consultation with the public utility concerned, appear to affect either the cost or feasibility of the improvement, the hearing shall be adjourned to a fixed future time and place and a new cost and feasibility report prepared on the basis of the contemplated changes. If additional areas are added, notice and an opportunity to protest shall again be given on the basis of such changes.

Protest by more than 40%—abandonment.

If the protests against the making of the improvement are received from more than forty percent (40%) of the property owners owning more than forty percent (40%) of the property in the proposed special improvement district, the district and project shall be abandoned. The same or any substantially similar special improvement district may not be renewed at any time within one (1) year. In determining whether or not sufficient protests

HeinOnline -- 1971 vol. II 1602 1971

have been filed to prevent further proceedings, property owned by a county, city or town shall be considered to the same effect as other property in the district.

The governing body shall, after considering matters brought forth at the hearing, either abandon the district and project or adopt an ordinance establishing the district and authorizing the project. Such ordinance shall be published in the manner provided in section 10, but need not be mailed. If an ordinance be adopted establishing the district, such ordinance shall finally and conclusively establish the regular organization of the district against all persons, unless an action attacking the validity of the organization shall be commenced in a court of competent jurisdiction within thirty (30) days after the adoption of such ordinance. Such action shall be subject to the provisions of section 13. Thereafter, any such action shall be perpetually barred and the organization of said district shall not be directly or collaterally questioned in any suit, action or proceedings.

Adoption of ordinance.

Publication.

Action commenced within 30 days.

Section 13. **Waiver of objections.** Every person who has real property within the boundaries of the district and who fails to submit a written protest in accordance with section 11, or appear and give testimony at the public hearing, shall be deemed to have waived any objections to the creation of the district, the making of the improvements and the inclusion of his property within the district. Such waiver shall not, however, preclude his right to object to the amount of the assessment at the hearing for which provision is made in section 17.

Waiver—nonprotesting owners.

Limitation.

Section 14. **Proposed assessment list.** Following creation of the special improvement district, the governing body shall cause to be prepared an assessment list detailing the total amount to be assessed, the specific properties assessed, and the amount of assessment on each piece of property.

Assessment list.

Section 15. **Proposed assessment ordinance.** After the preparation of the proposed assessment list, the governing body shall cause to be prepared for adoption at the hearing hereinafter provided for, an ordinance declaring the entire cost of the improvement, including the cost of construction as determined from section 26, and all legal and fiscal fees and costs, the cost of the publication of notices and all other costs properly incident to the

Ordinance declaring entire cost.

HeinOnline -- 1971 vol. II 1603 1971

construction of the improvement and the financing thereof. Such ordinance shall specify what share, if any, of the total cost is payable from sources other than the imposition of assessments and shall incorporate the proposed assessment list provided for in section 14. Such ordinance shall specify the terms of installment payments, if said improvement is to be financed over a period of time.

Notice of hearing on assessments.

Section 16. **Notice of public hearing on proposed assessments.** After the preparation of the aforesaid ordinance, notice of a public hearing on the proposed assessments shall be given. Such notice shall be published one (1) time in a newspaper in which the first notice of hearing was published at least twenty (20) days before the date fixed for the hearing and shall be mailed by the governing body not less than fifteen (15) days prior to the date fixed for such hearing to each owner of real property whose property will be assessed for part of the cost of the improvement at the addresses appearing on the last completed real property assessment rolls of the county wherein said affected property is located.

Publication.

Mailing.

Notice shall specify public hearing.

1. Each notice shall state that at the specified time and place, the governing body will hold a public hearing upon the proposed assessments and shall state that any owner of any property to be assessed pursuant to the ordinance will be heard on the question of whether his property will be benefited by the proposed improvement to the amount of the proposed assessment against his property and whether the amount assessed against his property constitutes more than his proper proportional share of the total cost of the improvement.

Public inspection of proposed ordinance.

2. The notice shall further state where a copy of the ordinance proposed to be adopted levying the assessments against all real property in the district will be on file for public inspection, and that, subject to such changes and corrections therein as may be made by the governing body, it is proposed to adopt the ordinance at the conclusion of the hearing.

Description of boundaries.

3. The published notice shall describe the boundaries or area of the district with sufficient particularity to permit each owner of real property therein to ascertain that his property lies in the district. The mailed notice may refer to the district by name and date of creation and

HeinOnline -- 1971 vol. II 1604 1971

shall state the amount of the assessment proposed to be levied against the real property of the person to whom the notice is mailed and the terms of installment financing, if any. In the absence of fraud, the failure to mail any notice does not invalidate any assessment or any proceeding under this chapter.

Public hearing.

Section 17. **Public hearing on proposed assessment ordinance.** On the date and at the time and place specified in the aforementioned notice, the governing body shall, in open and public session, hear all arguments relating to the benefits accruing to any tract, block, lot or parcel of land therein and the amounts proposed to be assessed against any such tract, block, lot or parcel. The hearing may be adjourned from time to time to a fixed future time and place. After the hearing has been concluded and all persons desiring to be heard have been heard, the governing body shall consider the arguments presented and shall make such corrections in the assessment list as may be considered just and equitable. Such corrections may eliminate, may increase, or may decrease the amount of the assessment proposed to be levied against any piece of property. However, no increase of any proposed assessment shall be valid unless the owner of the property is given notice and an opportunity to be heard. After such corrections have been made, the governing body shall make a specific finding that no proposed assessment on the corrected assessment list exceeds the benefit to be derived from the improvement by the piece of property to be so assessed and that no piece of property so listed will bear more than its proper proportionate share of the cost of such improvement.

Adjournment.

Corrections.

Notice.

Findings.

Adoption of assessment ordinance.

Section 18. **Adoption of the assessment ordinance.** After the public hearing has been concluded and all corrections made to the assessment list, the governing body shall proceed to adopt the assessment ordinance. The adoption of such ordinance shall be prima facie evidence of the fact that the property assessed is benefited in the amount of the assessments, and that such assessments have been lawfully levied.

Payment of assessments.

Section 19. **Payment of assessment.** All assessments shall be due and payable within thirty (30) days after the final publication of the assessing ordinance without demand; provided, that all such assessments may be paid,

HeinOnline -- 1971 vol. II 1605 1971

at the election of the owner, in installments, with interest, as provided in section 20.

Installment payments.

Section 20. **Installment payments.** Failure to pay the whole assessment within said period of thirty (30) days shall be conclusively considered and held to be an election on the part or all persons interested, whether under disability or otherwise, to pay in installments. In case of such election, the assessment shall be payable at such times as is provided by the governing body, not to exceed twenty (20) years, and shall bear interest in all cases on the unpaid principal at the rate not exceeding eight percent (8%) per annum. The number of installments, the time of payments, and the rate of interest shall be determined by the governing body and set forth in the assessing ordinance.

Not to exceed 20 years.

8% interest.

Collections.

Section 21. **Collection of installments—failure to pay installments.** Installments shall be collected in the manner and at the time prescribed. When one (1) payment becomes delinquent, all payments shall, at the option of the governing body by appropriate resolutions duly adopted, become delinquent. Delinquent installments shall be subject to the same interest and penalties as are now or hereafter provided for delinquent taxes by the laws of the state of Montana, and property subject to delinquent installments shall be sold as other property is sold for taxes.

Interest and penalties.

Assessment constitutes lien on land.

Section 22. **Assessment lien.** All assessments made in pursuance of this chapter, together with all interest thereon and penalties for default in payment thereof, and all costs in collecting the same, shall constitute, from the date of the final publication of the assessing ordinance, a lien in the several amounts assessed against each lot or tract of land, and shall have priority over all other liens excepting general tax liens. No sale of property for the nonpayment of taxes or other special assessments shall extinguish the lien of other than the taxes or special assessments for the nonpayment of which such sale is had.

Priority.

Ordinance may provide for advance payments.

Section 23. **Advance payment of assessment installments.** The governing body may, in the ordinance levying the assessments, provide that all unpaid installments of assessments levied against any piece of property may (but only in their entirety) be paid prior to the dates on which they become due, if the property owner paying

HeinOnline -- 1971 vol. II 1606 1971

such installments pays all interest which would accrue thereon to the next succeeding date on which interest is payable on the bonds issued in anticipation of the collection of the assessments. In addition, the property owner must pay such additional amount of interest as in the opinion of the governing body is necessary to assure the availability of money fully sufficient to pay interest on the bonds as interest becomes due, and any redemption premiums which may become payable on the bonds in order to retire, in advance of maturity, bonds in a sufficient amount to utilize the assessments thus paid in advance. If no bonds have been issued, then all unpaid installments of assessments levied against any piece of property may be paid in their entirety prior to the date upon which they become due by paying the principal amount due and the interest accrued thereon to the date of payment.

Governing body may issue bonds.

Section 24. **Issuance of bonds.** After the expiration of thirty (30) days from the date of the adoption of the ordinance levying the assessments, the governing body may issue negotiable interest-bearing bonds in a principal amount not exceeding the unpaid balance of the assessments levied. The bonds shall bear interest at not exceeding eight percent (8%) per annum, payable as specified by the governing body over a period not exceeding twenty (20) years. The bonds shall be of such form and denomination and shall be payable in principal and interest at such times and place, and shall be sold, authorized and issued in such manner as the governing body may determine. The bonds shall be dated no earlier than the date on which the special assessment shall begin to bear interest, and shall be secured by and payable from the levy and collection of the special assessments in anticipation of the collection of which they are issued. Any premium received on the sale of the bonds may be applied as other bond proceeds, or if not so applied, the same shall be placed in the fund for the payment of principal of and interest on the bonds.

8% interest—not exceeding 20 years.

Dating of bonds.

Application of premium on sale.

Signing.

Coupons.

The bonds shall be signed by a member of the governing body designated by the governing body and shall be countersigned by the appropriate treasurer with the corporate seal thereto affixed as appropriate and attested to by the clerk of the governing body. Interest may be evidenced by interest coupons attached to such bonds

HeinOnline -- 1971 vol. II 1607 1971

and signed by a facsimile signature of one of the individuals who signed the bond.

Validity.

Section 25. No special assessment levied under this chapter shall be declared void, nor shall any such assessment or part thereof be set aside in consequence of any error or irregularity permitted or appearing in any of the proceedings under this chapter, but any party feeling aggrieved by any such special assessment or proceeding may bring a civil action to cause such grievance to be adjudicated if such action is commenced prior to the expiration of the period specified in this section. The burden of proof to show that such special assessment or part thereof is invalid, inequitable or unjust shall rest upon the party who brings such suit. Every person whose property is subject to such special assessment and who fails to appear during the public hearings on said assessments to raise his objection to such tax shall be deemed to have waived all objections to such levy except the objection that the governing body lacks jurisdiction to levy such tax.

Civil action.

Burden of proof.

Waiver.

Exception.

30 day period—taxpayer may file suit.

For a period of thirty (30) days after the governing body has adopted the assessment ordinance, any taxpayer in the district shall have the right to institute litigation for the purpose of questioning or attacking the proceedings pursuant to which the assessments have been authorized. Whenever any ordinance authorizing the issuance of any bonds pursuant to the improvement contemplated shall have been adopted, such ordinance shall be published once in a newspaper in which the original notice of hearing was published. For a period of thirty (30) days thereafter, any person whose property shall have been assessed and any taxpayer in the district shall have the right to institute litigation for the purpose of questioning or attacking the legality of such bonds. After the expiration of such thirty (30) day period, all proceedings theretofore had by the governing body, the bonds to be issued pursuant thereto, and the special assessments from which such bonds are to be paid, shall become incontestable, and no suit attacking or questioning the legality thereof may be instituted in this state, and no court shall have the authority to inquire into such matters.

Publication of ordinances.

Incontestability after 30 days.

Determination of conversion costs—includable costs.

Section 26. **Conversion costs.** In determining the conversion costs included in the cost and feasibility report required by section 7, the public utility shall be entitled to

HeinOnline -- 1971 vol. II 1608 1971

amounts sufficient to repay them for the following, as computed and reflected by the uniform system of accounts approved by the Montana public service commission, federal communications commission, or federal power commission, or in the event the public utility is not subject to regulation by any of the above governmental agencies, by the public utility's system of accounts then in use and in accordance with standard accounting procedures of said public utility.

Original costs less depreciation.

1. The original costs less depreciation taken of the existing overhead electric and communication facilities to be removed.

Costs of removal.

2. The estimated costs of removing such overhead electric and communication facilities, less the salvage value of the facilities removed.

Construction of underground facilities.

3. If the estimated cost of constructing new underground facilities exceeds the estimated cost of constructing new aerial facilities, then the cost difference between the two.

Costs of easements.

4. The cost of obtaining new easements when technical considerations make it reasonably necessary to utilize easements for the underground facilities different from those used for above ground facilities, or where the preexisting easements are insufficient for the underground facilities.

Section 27. **Maintenance, construction and title to converted facilities.** The public utility shall have the duty to maintain, repair, and replace all underground facilities installed pursuant to this act. There shall be no competitive bidding as to the construction of the converted facilities since existing facilities are owned, maintained, and operated by the public utility and the continuity of service of the utility is essential, both of which make construction work by third persons impracticable. Therefore, the public utility concerned shall be responsible for the accomplishment of all construction work and may contract out such of the construction work as it deems desirable. Title to the converted facilities shall be at all times solely and exclusively in the public utility involved, as the public is only purchasing the intangible benefits which come from converted facilities; that is, the removal of the overhead facilities and replacement by underground facilities.

Public utility shall maintain facilities.

Title.

HeinOnline -- 1971 vol. II 1609 1971

Completion statement.

Section 28. Upon completion of the conversion of the overhead electric or communication facilities on public lands and right of way to underground, the public utility shall file a verified statement of the costs of such conversion with the governing body. The governing body shall mail to each landowner a notice stating that:

Notice to landowner.

1. Service from the underground facilities is available;

2. The landowner has sixty (60) days after the date of the mailing of such notice to convert all overhead electric or communication facilities providing service to any structure or improvement located on his lot or parcel to underground service facilities; and

3. After the sixty (60) day period following the date of the mailing of the notice, the governing body will order the public utility to disconnect and remove all overhead electric and communication facilities providing service to any structure or improvement within the area.

Conversion at landowner's expense.

Section 29. 1. Any conversion of electric or communication service facilities, including service connections, located on a privately owned lot or parcel shall be made at the expense of the landowner by the public utility owning the facility. The conversion shall be made in accordance with applicable safety rules, codes, regulations, tariffs or ordinances. The public utility shall not be required to convert service lines on property, other than public lands and right of way, until the landowner furnishes to the public utility a permit or easement authorizing the public utility and its employees, agents and contractors to enter upon real property of the landowner for the purpose of performing conversion work thereon.

Conditions.

Permit or easement.

Statement of costs —conversion of service facilities.

2. Upon completion of the conversion of overhead electric or communication service facilities on privately owned lots and parcels within a district, the public utility shall file with the governing body a verified statement of the costs of the conversion of such service facilities of each landowner in the district. Promptly thereafter, the governing body shall mail to each landowner a copy of such verified statement, which shall be due and payable within thirty (30) days or as otherwise provided by the public utility.

Notice to landowner.

HeinOnline -- 1971 vol. II 1610 1971

On failure of landowner— governing body may order conversion.

Section 30. If the owner of any structure or improvement served from the overhead electric or communication service facilities within an underground assessment district does not grant the utility a permit or easement referred to in section 29 of this chapter, or if such an owner fails to convert to underground service facilities within sixty (60) days after the mailing to him of the notice provided by section 28 of this chapter, the governing body shall order the public utility to complete the conversion and to disconnect and remove all overhead facilities, including service facilities, providing service to such structure or improvement.

Verified bill of conversion costs.

Section 31. **Payment of public utility.** Upon completion of the conversion contemplated by this chapter, the public utility shall present the governing body with its verified bill for conversion costs as computed pursuant to section 26, but based upon the actual cost of constructing the underground facility rather than the estimated cost of the facility. In the event the conversion costs are less than the estimated conversion costs, each assessed owner within the improvement district shall receive the benefit, prorated in such form and at such time or times as the governing body may determine. The bill of the public utility shall be paid within thirty (30) days by the governing body from the improvement district funds or such other source as is properly designated by the governing body. In determining the actual cost of constructing the underground facility, the public utility shall use its standard accounting procedures, such as the uniform system of accounts as defined by the federal communications commission, federal power commission, or Montana public service commission, and as is in use at the time of the conversion by the public utility involved.

Payment.

Accounting procedures.

Overhead reinstallation prohibited.

Section 32. **Reinstallation of overhead facilities not permitted.** Once removed, no overhead electric or communication facilities shall be installed in a special improvement district for conversion of overhead electric and communication facilities, except as authorized by this chapter.

Jurisdiction.

Section 33. **No limitation of public service commission's jurisdiction.** Nothing contained in this chapter shall vest any jurisdiction over public utility in the governing body. The public service commission of Mon-

HeinOnline -- 1971 vol. II 1611 1971

tana shall retain all jurisdiction now or hereafter conferred upon it by law.

Severability clause.

Section 34. **Invalidity of one provision not to affect others — exception.** If any section or provision of this chapter be adjudged unconstitutional or invalid for any reason, such adjudication shall not affect the validity of this chapter as a whole, or of any section or provision hereof, which is not specifically so adjudicated unconstitutional or invalid; provided, however, if any section or provision of this chapter concerning the payment to the public utility shall be adjudged unconstitutional or invalid for any reason in such a way that the payment to the public utility or the creation of the funds for that purpose is adjudged to be invalid or unconstitutional, then such invalidity or unconstitutionality shall invalidate this chapter in its entirety and to this end and in this event the provisions of this chapter are declared to be nonseverable.

Exception.

Abatement of construction.

Section 35. **Abatement of construction.** If a special improvement district is established pursuant to this chapter, the public utility involved shall not be required to commence conversion until the ordinance, the assessment roll and issuance of bonds have become final and no civil action has been filed or if civil action has been filed, until the decision of the court upon the action has become final and is not subject to further appeal.

Approved March 18, 1971

CHAPTER NO. 430

An Act Replacing Chapter 14, Title 41, R.C.M. 1947, Concerning the Regulation of Private Employment Agencies Including Provision for Penalties for the Violation of Such Regulations.

Be it enacted by the Legislative Assembly of the State of Montana:

"The employment agency act."

Section 1. This act shall be known and cited as "The Employment Agency Act".

Definitions.

Section 2. Unless a different meaning is clearly required by the context, the following words and phrases, as hereinafter used in this chapter, shall have the following meanings:

HeinOnline -- 1971 vol. II 1612 1971

"Employment agency." "Agency."

(1) "Employment agency" is synonymous with "agency" and shall mean any business in which any part of the business's gross or net income is derived from a fee received from applicants, and in which any of the following activities are engaged in:

(a) The offering, promising, procuring or attempting to procure employment for applicants; or

(b) The giving of information regarding where and from whom employment may be obtained.

In addition, the term "employment agency" shall mean and include any person, bureau, organization or school which for profit, by advertisement or otherwise; offers, as one of its main objects or purposes, to procure employment for any person who pays for its services, or which collects tuition, or charges for service of any nature, where the main object of the person paying the same is to secure employment. The term "employment agency" shall not include labor union organizations, temporary service contractors proprietary schools, or the Montana state employment agency.

"Temporary service contractors."

(2) "Temporary service contractors" shall mean any person, firm, association, or corporation conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part-time or temporary basis to others.

"Employer."

(3) "Employer" means any person, firm, corporation, partnership, or association employing or seeking to enter into an arrangement to employ a person through the medium or service of an employment agency.

"Applicant."

(4) "Applicant", except when used to describe an applicant for an employment agency license, means any person, whether employed or unemployed, seeking or entering into any arrangement for his employment or change of his employment through the medium or service of an employment agency.

"Person."

(5) "Person" includes an individual, a firm, a corporation, partnership or association.

"Director."

(6) "Director" shall mean the commissioner of the department of labor and industries.

Records required.

Section 3. Each employment agency shall keep records of all services rendered employers and applicants.

HeinOnline -- 1971 vol. II 1613 1971

These records shall contain the name and address of the employer by whom the services were solicited; the name and address of the applicant; kind of position ordered by the employer; kind of position accepted by the applicant; probable duration of the employment, if known; rate of wage or salary to be paid the applicant; amount of the employment agency's fee; dates and amounts of refund if any, and reason for such refund; and the contract agreed to between the agency and applicant.

Director's authority to examine.

The director shall have authority to demand and to examine, at the employment agency's regular place of business, all books, documents, and records in its possession for inspection. Unless otherwise provided by rules or regulations adopted by the director, such records shall be maintained for a period of three (3) years from the date in which they are made.

Records kept three years.

Agency must provide copy to applicant.

Section 4. An employment agency shall provide each applicant with a copy of the contract between the applicant and employment agency. Such contract shall contain the following:

(1) The name, address, and telephone number of the employment agency;

(2) Trade name if any;

(3) The date of the contract;

(4) The name of the applicant;

(5) The amount of the fee to be charged the applicant;

Notice required.

(6) A notice in eight-point bold face type or larger directly above the space reserved in the contract for the signature of the buyer. The caption, "NOTICE TO APPLICANT — READ BEFORE SIGNING" shall precede the body of the notice and shall be in ten-point bold face type or larger. The notice shall read as follows:

"This is a contract. If you accept employment with any employer through (name of employment agency) you will be liable for the payment of the fee as set out above. Do not sign this contract before you read it or if any spaces intended for the agreed terms are left blank. You are entitled to a copy of this contract at the time you sign it."

HeinOnline -- 1971 vol. II 1614 1971

Director approval of contract form.

Section 5. Prior to using any contract in the transaction of its business with applicants, each employment agency shall obtain the director's approval for the use of such contract. The director shall disapprove any proposed contract which either tends to be or is vague, deceitful, misrepresentative or attempts to charge an unreasonable fee or is in violation of this act. No fee shall be charged an applicant referred to a state employment office or any organization having exclusive hiring hall procedures as provided in the National Labor Relations Act.

Referral fee prohibited.

Interview request from employer.

Section 6. No employment agency shall send any applicant on an interview with a prospective employer without first having obtained, either orally or in writing, a bona fide request from such employer for the interview.

Administration by director.

Section 7. The director shall administer the provisions of this act and shall issue from time to time reasonable rules and regulations for enforcing and carrying out the provisions and purposes of this act.

Subpoena power.

(2) The director shall have power to compel the attendance of witnesses by the issuance of subpoenas, to administer oaths, and to take testimony and proofs concerning all matters pertaining to the administration of this act.

Supervisory and investigative authority.

(3) The director shall have supervisory and investigative authority over all employment agencies. Upon receiving a complaint against any employment agency, the director shall have the right to examine all books, documents, or records in its possession. In addition, the director may examine the office or offices where business is or shall be conducted by such agency.

Employment agency license required—misdemeanor.

Section 8. It shall be a misdemeanor for any person to conduct an employment agency business in this state unless he has an employment agency license issued pursuant to the provisions of this act.

Surety bond required—$2,000.

Section 9. Before conducting any business as an employment agency each licensee shall file with the director a surety bond in the sum of two thousand dollars ($2,000) running to the state of Montana, for the benefit of any person injured or damaged as a result of any violation by the licensee or his agent of any of the pro-

HeinOnline -- 1971 vol. II 1615 1971

visions of this act or of any rule or regulation adopted by the director pursuant to section 7 (1) of this act.

Deposit in lieu of bond.

In lieu of the surety bond required by this section the license applicant may file with the director a cash deposit or other negotiable security accaptable to the director: provided, however, if the license applicant has filed a cash deposit, the director shall deposit such funds in a special trust savings account in a commercial bank, mutual savings bank, or saving and loan association and shall pay annually to the depositor the interest derived from such account.

Application for license.

Section 10. (1) Every applicant for an employment agency's license or a renewal thereof shall file with the director a written application stating the name and address of the applicant; the street and number of the building in which the business of the employment agency is to be conducted; the name of the person who is to have the general management of the office; the name under which the business of the office is to be carried on; whether or not the applicant is pecuniarily interested in the business to be carried on under the license; shall be signed by the applicant and sworn to before a notary public; and shall identify anyone holding over twenty

Corporation applicant.

percent (20%) interest in the agency. If the applicant is a corporation, the application shall state the names and addresses of the officers and directors of the corporation, and shall be signed and sworn to by the president and

Partnership.

secretary thereof. If the applicant is a partnership, the application shall also state the names and addresses of all partners therein, and shall be signed and sworn to by all of them. The application shall also state whether or not the applicant is, at the time of making the application, or has at any previous time been engaged in or interested in or employed by anyone engaged in the business of an employment agency.

Copy of form of contract.

(2) All applications for employment agency licenses shall be accompanied by a copy of the form of contract to be used between the agency and the applicant.

Expiration June 30.

Section 11. An employment agency license shall expire June 30.

Nontransferable.

Section 12. No license granted pursuant to this act shall be transferable without the consent of the director.

Consent of director.

No employment agency shall permit any person not

HeinOnline -- 1971 vol. II 1616 1971

mentioned in the license application to become connected with the business as an owner, member, officer, or director without the consent of the director. Consent may be withheld for any reason for which an original application for a license might have been rejected, if the person in question had been mentioned therein.

Denial, suspension, revocation—findings.

Section 13. The director may by order deny, suspend or revoke the license of any employment agency if he finds that the applicant or licensee:

(1) Was previously the holder of a license issued under this act, which was revoked for cause and never reissued by the director, or which license was suspended for cause and the terms of the suspension have not been fulfilled;

(2) Has been found guilty of any felony within the past five (5) years involving moral turpitude, or for any misdemeanor concerning fraud or conversion, or suffering any judgment in any civil action involving wilful fraud, misrepresentation or conversion;

(3) Has made a false statement of a material fact in his application or in any data attached thereto;

(4) Has violated any provisions of this act, or failed to comply with any rule or regulation issued by the director pursuant to this act.

License fees.

Section 14. The following fees shall be charged by the director to those parties licensed as employment agencies: original applications, one hundred dollars ($100); renewal per year, one hundred dollars ($100); branch license, both original and renewal, one hundred dollars ($100); transfer of license, twenty-five dollars ($25); approval of amended or new contracts, fifteen dollars ($15) per contract.

Employment fee conditions.

Section 15. No employment agency shall charge or accept a fee or other consideration from an applicant without complying with the terms of a written contract as specified in section 4 of this act, and then only after such agency has been responsible for referring such job applicant to an employer or such employer to a job applicant and where as a result thereof such job applicant has been employed by such employer.

Return of fee in 7 days—director's demand.

Section 16. Any employment agency which collects, receives, or retains a fee or other payment contrary to

HeinOnline -- 1971 vol. II 1617 1971

the provisions of this act or to the rules or regulations adopted pursuant to this act shall return the excessive portion of the fee within seven (7) days after receiving a demand therefor from the director.

Rules.

Section 17. In addition to the other provisions of this act the following rules shall govern each and every employment agency:

Display of license.

(1) Every license or a verified copy thereof shall be displayed in a conspicuous place in each office of the employment agency;

Registration fee prohibited.

(2) No fee shall be solicited or accepted as an application or registration fee by any employment agency solely for the purpose of being registered as an applicant for employment;

Inducement forbidden.

(3) No licensee or agent of the licensee shall solicit, persuade, or induce an employee to leave any employment in which the licensee or agent of the licensee has placed the employee; nor shall any licensee or agent of the licensee persuade or induce or solicit any employer to discharge any employee;

False advertising.

(4) No employment agency shall knowingly cause to be printed or published a false or fraudulent notice or advertisement for obtaining work or employment. All advertising by a licensee shall signify that it is an employment agency solicitation;

Strike or lockout.

(5) No licensee shall refer an applicant to an employer where there is a strike or lockout at the place of proposed employment, if such licensee has knowledge that such condition exists;

Splitting fees forbidden.

(6) No licensee or agent of a licensee shall directly or indirectly split, divide, or share with an employer any fee, charge, or compensation received from any applicant who has obtained employment with such employer or with any other person connected with the business of such employer;

Priority of fees.

(7) When an applicant is referred to the same position by two licensees, the fee shall be paid to the licensee who first contacted the applicant concerning the specific opening: provided, that he has given the name of the employer to the applicant and has arranged an

HeinOnline -- 1971 vol. II 1618 1971

interview or submitted a resume to the employer within ten (10) days of such contract.

Attorney general or county attorney may bring action.

Section 18. The director may refer such evidence as may be available to him concerning violations of this act or of any rule or regulation adopted hereunder to the attorney general or the prosecuting attorney of the county wherein the alleged violation arose, who may, in their discretion, with or without such a reference, in addition to any other action they might commence, bring an action in the name of the state against any person to restrain and prevent the doing of any act or practice prohibited by this act.

Assurance of discontinuance of violation.

Section 19. In the enforcement of this act, the attorney general and/or any said prosecuting attorney may accept an assurance of discontinuance from any person deemed in violation of any provisions of this act. Any such assurance shall be in writing and shall be filed with and subject to the approval of the superior court of the county in which the alleged violator resides or has his principal place of business.

Penalties for violations.

Civil penalty—$2,000.

Section 20. Any person who violates the terms of any court order or temporary or permanent injunction issued pursuant to this act, shall forfeit and pay a civil penalty of not more than two thousand dollars ($2,000). For the purpose of this section the court issuing any injunction shall retain continuing jurisdiction and in such cases the attorney general and/or the prosecuting attorney acting in the name of the state may petition for the recovery of civil penalties.

Service of process.

Section 21. Personal service of any process in an action under this act may be made upon any person outside the state if such person has engaged in conduct in violation of this act which conduct has had impact in this state which this act reprehends. Such person shall be deemed to have thereby submitted himself to the jurisdiction of the courts of this state.

Exclusive provisions.

Section 22. (1) The provisions of this act relating to the regulation of private employment agencies shall be exclusive.

Validity.

(2) This act shall not be construed to affect or reduce the authority of any political subdivision of the state of Montana to provide for the licensing of private employment agencies solely for revenue purposes.

HeinOnline -- 1971 vol. II 1619 1971

Deposit of license fees.

(3) All license fees shall revert to Department of Labor and Industry to be used for administration of this act.

Repealing clause.

Section 23. Chapter 14, Title 41, R.C.M. 1947, is hereby repealed.

Approved March 18, 1971

CHAPTER NO. 431

An Act Providing for Conservation Districts; Generally Revising Title 76; and Amending Sections 76-101, 76-103 Through 76-111, 76-114, 76-115, 76-117, 76-201, 76-208 Through 76-210, 76-222 Through 76-226, and 76-229, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 76-101, R.C.M. 1947, is amended to read as follows:

"State conservation district law."

"76-101. **Short title.** This act may be known and cited as "the State Conservation Districts Law."

Amending clause.

Section 2. Section 76-103, R.C.M. 1947, is amended to read as follows:

Definitions.

"76-103. **Definitions.** Wherever used or referred to in this act, unless a different meaning clearly appears from the context:

"District" or "Conservation district."

(1) "District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth;

"Supervisor."

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act;

"Commission" or "state conservation commission."

(3) *"Commission"* or "state conservation *commission"* means the agency created in section 76-104;

"Petition."

(4) "Petition" means a petition filed under the provisions of subsection A of section 76-105 for the creation of a district;

HeinOnline -- 1971 vol. II 1620 1971

(5) "Nominating petition" means a petition filed under the provisions of section 76-106 to nominate candidates for the office of supervisor of a conservation district; "Nominating petition."

(6) "State" means the state of Montana; "State."

(7) "Agency of this state" includes the government of this state and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this state; "Agency of this state."

(8) "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America; "United states" or "agencies of the United States."

(9) "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise of either of them; "Government" or governmental."

(10) "Land occupier" or "occupier of land" includes any person, firm, corporation, municipality or other entity who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as owner, lessee, renter, tenant, or otherwise; "Land occupier" or "occupier of land."

(11) "Due notice" means notice published at least twice, with an interval of at least fourteen (14) days between the two *(2)* publication dates, in a newspaper or other publication of general circulation within the proposed area, or by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates. "Due notice."

(12) "Qualified elector" means a qualified elector as defined in title 23, R.C.M. 1947." "Qualified elector."

Section 3. Section 76-104, R.C.M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1971 vol. II 1621 1971

State conservation commission established.

"76-104. **State conservation** *commission.* A. There is hereby established, to serve as an agency of the state, and to perform the functions conferred upon it in this act, the state conservation *commission.* The state conservation *commission* shall consist of seven (7) members. The following shall serve as members of the *commission:* The director of the state agricultural experiment station; the director of the state extension service; and the commissioner of the state department of agriculture. Four (4) members to be appointed by the governor from a list of twenty (20) submitted by the Montana association of conservation districts, at the next annual meeting of such association. In the formation of such list to be submitted to the governor, nominations shall be made by the convention and each district shall have one (1) vote. No person shall be eligible for the selection as a member unless he is at the time of selection or shall have been at some previous time a conservation district supervisor. From the list of twenty (20) names submitted the governor shall appoint one (1) person to serve a one-year term, one (1) person to serve a two-year term, one (1) person to serve a three-year term, and one (1) person to serve a four-year term; thereafter each year a list of five (5) names will be compiled in the same manner and submitted to the governor, which which list the governor shall appoint one (1) person to serve a four (4) year term on the state conservation *commission.* In the event a vacancy should occur for any reason among the members a successor shall be appointed by the governor to fill the unexpired term, which successor must be chosen from the last previous list submitted to the governor. The *commission* may invite the secretary of agriculture of the United States of America to appoint one *(1)* person to serve with the above-mentioned members as a non-voting member of the *commission.* The *commission* shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this act.

Seven members—qualifications.

Four appointed by governor.

Nominations.

Terms of office.

Vacancies.

Nonvoting member.

Records.

Seal.

Employment—administrative officer—other personnel.

B. The state conservation *commission* may employ an administrative officer and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation.

Legal services.

The *commission* may call upon the state for such legal services as it may require, or may employ its own counsel

HeinOnline -- 1971 vol. II 1622 1971

and legal staff. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. Upon request of the *commission* for the purpose of carrying out any of its functions, the supervising officer of any state agency or of any state institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the *commission* members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the *commission* may request.

Delegation of powers and duties.

Cooperation by other agencies.

C. The *commission* shall annually elect a chairman from its own membership. State *commissioners* shall continue as members of the state *commission* so long as they shall retain the offices by virtue of which they shall be serving on the *commission.* The appointed members shall hold office for four (4) years and their term of office shall be concurrent with the governor. A majority of the *commission* shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Ex officio members of the *commission* shall receive no compensation for their services on the *commission.* Other members of the *commission* shall receive twenty dollars ($20) per day while on duty. All members of the state *commission* shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the *commission.* The *commission* shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the account of receipts and disbursements.

Chairman.

Terms of office.

Quorum.

Per diem $20.

Expenses.

Surety bonds.

Records.

Annual audit.

D. In addition to the duties and powers hereinafter conferred upon the state soil conservation *commission,* it shall have the following duties and powers:

Duties and powers.

(1) To offer such assistance as may be appropriate to the supervisors of conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs;

Assistance to districts.

HeinOnline -- 1971 vol. II 1623 1971

Information.

(2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experiences of all other districts organized hereunder, and to facilitate an interchange of advice and experiences between such districts and cooperation between them;

Coordination.

(3) To coordinate the programs of the several conservation districts organized hereunder so far as this may be done by advice and consultation;

Cooperation of federal and state agencies.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts;

Formation of districts.

(5) To disseminate information throughout the state concerning the activities and programs of the conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable."

Amending clause.

Section 4. Section 76-105, R.C.M. 1947, is amended to read as follows:

10 qualified voters may petition for district.

"76-105. **Creation of conservation districts.** A. Any ten (10) *qualified electors* within the limits of the territory proposed to be organized into a district may file a petition with the state conservation *commission* asking that a conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

Name.

(1) The proposed name of said district;

Need.

(2) That there is need, in the interest of the public health, safety, and welfare, for a conservation district to function in the territory described in the petition;

Description of territory.

(3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate;

Boundaries.

Referendum.

(4) A request that the state conservation *commission* duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a conservation district in such territory; and that the *commission* determine that such a district be created.

HeinOnline -- 1971 vol. II 1624 1971

Where more than one petition is filed covering parts of the same territory, the state conservation *commission* may consolidate all or any part of such petitions. Consolidation.

B. Within thirty (30) days after such a petition has been filed with the state conservation *commission,* it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this act, and upon all questions relevant to such inquiries. All *qualified electors* within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the *commission* shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety and welfare, for a conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determinations and in defining such boundaries, the *commission* shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other conservation districts already organized or proposed for organization under the provisions of this act, and such other physical, geographical, and economic factors as are relevant, having due regard to the

Notice within 30 days.

Right to hearing.

Procedures.

Determination of need.

Boundaries defined.

Consideration by commission.

HeinOnline -- 1971 vol. II 1625 1971

legislative determination set forth in section 76-102. The territory to be included within such boundaries need not be contiguous. If the *commission* shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six (6) months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearing held and determinations made thereon.

Determination of no need.

Subsequent petitions after six months.

C. After the *commission* has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon conservation districts in this act is administratively practicable and feasible. To assist the *commission* in the determination of such administrative practicability and feasibility, it shall be the duty of the *commission,* within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given. The question shall be submitted by ballots upon which the words "For creation of a conservation district of the lands below described and lying in the county(ies) of ....., ..., and ....." and "Against creation of a conservation district of the lands below described and lying in the county(ies) of ..... and ....." shall appear, with a square before each proposition and a direction to insert an "X" mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the *commission.* All *qualified electors* within the boundaries of the territory, as determined by the state conservation *commission,* shall be eligible to vote in such referendum.

Determination of feasibility.

Referendum.

Notice.

Ballot form.

Voter eligibilty.

D. The *commission* shall pay all expenses for the issuance of such notices and the conduct of such hearings

Expenses—conduct of hearings and referenda.

HeinOnline -- 1971 vol. II 1626 1971

and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

Validity.

E. The *commission* shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the *commission* shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the *commission* shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the *commission* shall give due regard and weight to the attitudes of the *qualified electors* within the defined boundaries, the number of *qualified electors* eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the *qualified electors* of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determinations set forth in section 76-102; provided, however, that the *commission* shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless *a majority* of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

Publication—result of referendum.

Determination of infeasibility.

Determination of feasibility.

Organization.

Considerations by commission.

Majority vote.

F. If the *commission* shall determine that the operation of the proposed district within the defined boundaries is

Appointment of supervisors.

HeinOnline -- 1971 vol. II 1627 1971

administratively practicable and feasible, it shall appoint two (2) supervisors to act with the three (3) supervisors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

Application to secretary of state.

The two (2) appointed supervisors shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals): (1) That a petition for the creation of the district was filed with the state conservation *commission* pursuant to the provisions of this act, and that the proceedings specified in this act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this act; and that the *commission* has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location of the principal offices of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this state to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the state conservation *commission,* which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the *commission* did duly determine that there is need, in the interest of the public health, safety, and welfare, for a conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed *a majority* of the votes cast in such referendum to be in favor of the creation of the district; that thereafter the *commission* did duly determine that the operation of the proposed district is administratively practicable and feasible; the said statement

Subscribed and sworn to.

Statement—certification by commission.

HeinOnline -- 1971 vol. II 1628 1971

shall set forth the boundaries of the district as they have been defined by the *commission.*

Duties of secretary of state—proposed names.

The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other conservation district of this state or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other conservation district of this state, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the state conservation *commission,* which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this state and a public body corporate and politic. The secretary of state shall make and issue to the said supervisors without cost a certificate, under the seal of the state, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the state conservation *commission* as aforesaid, but in no event shall they include any area included within the boundaries of another conservation district organized under the provisions of this act.

Recording.

Effect of recording.

Certificate.

Boundary limitations.

Six months after denial of petition—subsequent petition may be filed.

G. After six (6) months shall have expired from the date of entry of a determination by the state conservation *commission* that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid and action taken thereon in accordance with the provisions of this act.

Petitions to include additional territory.

H. Petitions for including additional territory within an existing district may be filed with the state conservation *commission,* and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The *commission*

HeinOnline -- 1971 vol. II 1629 1971

Forms. shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act for petitions to organize a district. Where the total number of *qualified electors* in the area proposed for inclusion shall be less than ten (10), the petition may be filed when signed by a majority of the *qualified electors* of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all *qualified electors* within the proposed additional area shall be eligible to vote.

Less than ten qualified voters.

Voter eligibility.

Validity. I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this act upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate, duly certified by the secretary of state, shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof."

Certified copy as evidence.

Amending clause. Section 5. Section 76-106, R.C.M., 1947, is amended to read as follows:

"76-106. **Election of supervisors for each district.** Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a conservation district, nominating petitions may be filed with the state conservation *commission* to nominate candidates for supervisors of such districts. The *commission* shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the *commission* unless it shall be subscribed by ten (10) or more *qualified electors* within the boundaries of such district. *Qualified electors* may sign more than one (1) such nominating petition to nominate more than one (1) candidate for supervisor. The *commission* shall give due notice of an election to be held for the election of three (3) supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall be printed, arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and a direction to insert an "X" mark in the square before any three (3) names to indicate the voter's preference. All *qualified electors* within the district shall be eligible

Within 30 days—nominating petitions—candidates for supervisors.

Notice of election of three supervisors.

Ballots.

Voter eligibility.

HeinOnline -- 1971 vol. II 1630 1971

to vote in such election. The three (3) candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The *commission* shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of votes therein, and shall publish the results thereof.''

Elected supervisors.

Expenses and conduct of elections.

Section 6. Section 76-107, R.C.M., 1947, is amended to read as follows:

Amending clause.

"76-107. **Appointment, qualifications and tenure of supervisors.** The governing body of the district shall consist of five (5) *or seven (7)* supervisors, elected *or appointed* as provided herein.

Five or seven member governing body.

The supervisors shall annually elect a chairman from their members. The term of office of each supervisor shall be three (3) years, except that the supervisors who are first appointed shall be designated to serve for terms of one (1) and two (2) years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected and has qualified. Any vacancy occurring in the office of supervisor shall be filled by appointment by the remaining supervisors until the next regular election, when a successor shall be elected to serve the unexpired term. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties.

Chairman.

Terms of office.

Vacancies.

Quorum.

Expenses.

The supervisors may employ a secretary and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the attorney general of the state for such legal services as they may require, or may employ their own counsel and legal staff. The supervisors may delegate to their chairmen, to one *(1)* or more supervisors, or to one *(1)* or more agents or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the state conservation *commission,* copies of such ordinances, rules, regulations, orders, contracts, forms, and other docu-

Employment of personnel.

Legal services.

Delegation of powers and duties.

Copies to commission.

HeinOnline -- 1971 vol. II 1631 1971

ments as they shall adopt or employ, and such other information concerning their activities as may be required in the performance of its duties under this act.

Surety bonds.

Records.

Annual audit.

Removal for cause.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings, and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the state conservation *commission* upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

Consulting representative.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county."

Amending clause.

Section 7. Section 76-108, R.C.M., 1947, is amended to read as follows:

Powers of districts and supervisors.

"76-108. **Powers of districts and supervisors.** A. A conservation district organized under the provisions of this act shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this act:

Surveys.

Water conservation —control measures.

(1) to conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damages, and to the conservation, development, utilization, and disposal of water and the preventive and control measures and works of improvement needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures and works of improvement; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;

HeinOnline -- 1971 vol. II 1632 1971

Projects.

(2) To conduct soil, vegetation, and water resources conservation projects on lands within the districts upon obtaining the consent of the owner of such lands or the necessary rights or interest in such land;

Flood prevention.

(3) To carry out preventive and control measures and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water within the district, including, but not limited to, engineering operations, range management, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in subsection C of section 76-102, R.C.M., 1947, on lands owned or controlled by this state or any of its agencies with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands;

Cooperation—agreements.

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion control and prevention operations, and works of improvement for flood prevention and the conservation, development, utilization and disposal of water within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this act;

Acquisition of property.

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein, and all such property shall be exempt from taxation by the state or any political subdivision thereof, to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this act;

Assistance to land occupiers.

(6) To make available on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment, as will assist such land occupiers to carry on opera-

HeinOnline -- 1971 vol. II 1633 1971

tions upon their lands for the conservation of soil resources and for the prevention and control of soil erosion, and for flood prevention and the conservation, development, utilization, and disposal of water;

Structures.

(7) To construct, improve, operate and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

Comprehensive plans—soil and water resources.

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion, and for flood prevention, and conservation, development, utilization, and disposal of water within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable, for the effectuation of such plans, including the specification of engineering operations, range management, methods of cultivation, the growing of vegetation, cropping and range programs, tillage and grazing practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

Publication.

Acquisition of federal and state projects.

(9) To take over, by purchase, lease, or otherwise, and to administer any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control; or erosion-prevention project, or combinations thereof, located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control, or erosion-prevention project, or combination thereof, within its boundaries; to act as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, flood-preventin, drainage, irrigation, water-management, erosion-control, or erosion-prevention projects, or combination thereof, within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

Management as agent.

HeinOnline -- 1971 vol. II 1634 1971

(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not consistent with this act, to carry into effect its purposes and powers; Other rights and duties.

(11) As a condition to the extending of any benefits under this act to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion and prevent floodwater and sediment damages thereon; Land occupiers cooperation.

(12) To borrow money and incur indebtedness and to issue bonds or other evidence of such indebtedness; also to refund or retire an indebtedness or lien that may exist against the district or property thereof; Loans—bonds.

(13) To fix and revise as necessary and collect rates, fees, tolls, rents, or other charges for the use of or for services, facilities and materials furnished or provided. Revenues from these sources may be expended in carrying out the purposes and provisions of this act; Collection of fees.

(14) To cause taxes to be levied in the same manner provided for in Title 76, chapter 2, R.C.M., 1947, for the purpose of paying any obligation of the district and to accomplish the purposes of this act in the manner herein provided. Tax levies.

B. No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state." Legislative action required.

Section 8. Section 76-109, R.C.M., 1947, is amended ot read as follows: Amending clause.

"76-109. **Adoption of land-use regulations.** (A) The supervisors of any district shall have authority to formulate regulations governing the use of lands within the Authority to regulate land use.

HeinOnline -- 1971 vol. II 1635 1971

district in the interest of conserving soil and *water* resources and preventing and controlling erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the *qualified electors* within the boundaries of the district for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such referendum.

Public hearing.

Notice of intent.

Referendum.

Proposed ordinance.

(B) The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance No. ....., prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No. ....., prescribing land-use regulations for conservation of soil and prevention of erosion" shall appear, with a square before each proposition and a direction to insert an "X" mark in the square before one *(1)* or the other of said propositions as the voter may favor or oppose approval of such proposed ordinance. The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All *qualified electors* within the district shall be eligible to vote in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

Ballots.

Supervision of referendum.

Voter eligibility.

Validity.

Majority vote required.

(C) The supervisors shall not have authority to enact such proposed ordinance into law unless *a majority* of the votes cast in such referendum shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by *a majority* of the votes cast in

HeinOnline -- 1971 vol. II 1636 1971

such referendum shall not be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this section by the supervisors of any district shall have the force and effect of law in the said district and shall be binding and obligatory upon all occupiers of lands within such district.

Land-use ordinances have force and effect of law.

(D) Any *qualified elector* within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this section shall be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this section shall not be amended, supplemented or repealed, except in accordance with the procedure prescribed in this section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more often than once in six (6) months.

Qualified elector may petition supervisors.

Referenda limited—once in six months.

The regulations to be adopted by the supervisors under the provisions of this section may include:

Regulation inclusions.

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of water spreaders, terraces, terrace outlets, check dams, dikes, ponds, ditches, fences, and other necessary structures;

Engineering operations.

2. Provisions requiring observance of particular methods of cultivation or grazing, including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation and reforestation;

Methods of land use.

3. Specifications of cropping and range programs and tillage and grazing practices to be observed;

Cropping and range programs.

4. Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

Nonuser of erosive areas.

5. Provisions for such other means, measures, operations, and programs as may assist conservation of soil *and water* resources and prevent or control erosion in the district, having due regard to the legislative findings set forth in section 76-102.

Other conservation measures.

HeinOnline -- 1971 vol. II 1637 1971

Uniform regulations.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, grazing and cropping programs, and tillage and range practices in use, and other relevant factors and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all *occupiers of land* within the district."

Publication of regulations.

Amending clause.

Section 9. Section 76-110, R.C.M., 1947, is amended to read as follows:

"76-110. **Performance of work under the regulations by the supervisors.** (1) The supervisors shall have authority to go upon any lands within the district after a complaint shall have been filed with the supervisors charging a violation of the regulations, to determine whether land-use regulations adopted under the provisions of section 76-109 are being observed.

Right of access.

Findings of nonobservance.

(2) Where the supervisors of any district shall find that any of the provisions of land-use regulations prescribed in any ordinance adopted in accordance with the provisions of section 76-109 are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands, and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the district court of the county in which the lands of the defendant may lie, a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into con-

Petition to district court.

HeinOnline -- 1971 vol. II 1638 1971

formity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the *defendant.*

(3) Upon the presentation of such petition, the court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

Service of process —court hearing.

Referee.

(4) The court may dismiss the petition; or it may require the defendant to perform the work, operations, or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the court, and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations or otherwise bring the condition of such land into conformity with the requirements of the regulations and recover the costs and expenses thereof, with interest at the rate of five *percent (5%) a year* from the *defendant.* In all cases where the person in possession of lands, who shall fail to perform such work, operations, or avoidances shall not be the owner, the owner of such lands shall be joined as party defendant.

Court order.

Supervisors may perform work.

Recovery from defendant.

Owner as party defendant.

(5) The court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the court the supervisors may file a petition with the court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The court shall have jurisdiction to enter judgment for the amount of such costs and expenses, with interest at the rate of five *percent (5%)* a year until paid, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court."

Jurisdiction retained.

Petition for judgment.

Interest 5%.

Costs.

Attorney's fee.

Section 10. Section 76-111, R.C.M., 1947, is amended to read as follows:

Amending clause.

"76-111. **Board of adjustment.** A. Where the supervisors of any district organized under the provisions of

Three member board of adjustment provided.

HeinOnline -- 1971 vol. II 1639 1971

this act shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of section 76-109, they shall further provide by ordinance for the establishment of a board of adjustment. Such board of adjustment shall consist of three (3) members, each to be appointed for a term of three (3) years, except that the members first appointed shall be appointed for terms of 1, 2, and 3 years, respectively. The members of each such board of adjustment shall be appointed by the state conservation *commission,* with the advice and approval of the supervisors of the district for which such board has been established, and shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly by the state conservation *commission* and the supervisors of the district. Vacancies in the board of adjustment shall be filled in the same manner as original appointments and shall be for the unexpired term of the member whose term becomes vacant. Members of the state conservation *commission* and the supervisors of the district shall be ineligible to appointment as members of the board of adjustment during their tenure of such other office. The members of the board of adjustment shall receive compensation for their services at the rate of four dollars ($4) per diem for time spent on the work of the board, in addition to expenses, including traveling expenses, necessarily incurred in the discharge of their duties. The supervisors shall pay the necessary administrative and other expenses of operation incurred by the board, upon the certificate of the chairman of the board.

Terms of office.

Appointment.

Removal for cause —notice and hearing.

Vacancies.

Per diem $4.

Expenses.

B. The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this act, and with provisions of any ordinance adopted pursuant to this section. The board shall annually elect a chairman from among its members. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any two (2) members of the board shall constitute a quorum. The chairman, or in his absence, such other member of the board as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be

Procedure rules.

Chairman.

Meetings.

Quorum.

Subpoena.

Public meetings.

Records.

HeinOnline -- 1971 vol. II 1640 1971

filed in the office of the board and shall be a public record.

Qualified elector may file petition for variance.

C. Any *qualified elector* may file a petition with the board of adjustment, alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by ordinance approved by the supervisors, and praying the board to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands occupied by the petitioner. Copies of such petition shall be served by the petitioner upon the chairman of the supervisors of the district within which his lands are located and upon the chairman of the state conservation *commission*. The board of adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the state conservation *commission* shall have the right to appear and be heard at such hearing. Any *qualified elector* within the district who shall object to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the board may appear in person, by agent, or by attorney. If, upon the facts presented at such hearing the board shall determine that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the board shall have power by order to authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land-use regulations shall be observed, the public health, safety, and welfare secured, and substantial justice done.

Service.

Hearing—notice.

Qualified elector may intervene.

Determinations and findings.

Board has power to order variance.

Right of review by district court.

D. Any petitioner aggieved by an order of the board granting or denying, in whole or in part, the relief sought, the supervisors of the district or any intervening party, may obtain a review of such order in any district court of the county, in which the lands of the petitioner may

HeinOnline -- 1971 vol. II 1641 1971

Petition. Service. Transcript. Service of notice. Jurisdiction. Decree. Evidence. Findings of fact conclusive. Board may modify findings. Review.

lie, by filing in such court a petition praying that the order of the board be modified or set aside. A copy of such petition shall forthwith be served upon the parties to the hearing before the board and thereupon the party seeking review shall file in the court a transcript of the entire record in the proceedings, certified by the board, including the documents and testimony upon which the order complained of was entered, and the findings, determination, and order of the board. Upon such filing, the court shall cause notice thereof to be served upon the parties and shall have jurisdiction of the proceedings and of the questions determined or to be determined therein, and shall have power to grant such temporary relief as it deems just and proper and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board. No contention that has not been urged before the board shall be considered by the court unless the failure or neglect to urge such contention shall be excused because of extraordinary circumstances. The findings of the board as to the facts, if supported by evidence, shall be conclusive. If any party shall apply to the court for leave to produce additional evidence and shall show to the satisfaction of the court that such evidence is material and that there were reasonable grounds for the failure to produce such evidence in the hearing before the board, the court may order such additional evidence to be taken before the board and to be made a part of the transcript. The board may modify its findings as to the facts or make new findings, taking into consideration the additional evidence so taken and filed, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and shall file with the court its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review in the same manner as are other judgments or decrees of the court."

Amending clause.

Section 11. Section 76-114, R.C.M., 1947, is amended to read as follows:

Petition for discontinuance of district.

"76-114. **Discontinuance of districts.** (1) At any time after five (5) years after the organization of a district under the provisions of this act, any ten (10) *qualified*

HeinOnline -- 1971 vol. II 1642 1971

electors within the boundaries of such district may file a petition with the state conservation *commission,* praying that the operations of the district be terminated and the existence of the district discontinued. The *commission* may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof.

Public hearings.

(2) Within sixty (60) days after such a petition has been received by the *commission* it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the ..... (name of the conservation district to be here inserted)" and "Against terminating the existence of the ..... (name of the conservation district to be here inserted)" shall appear, with the square before each proposition and a direction to insert an "X" mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All *qualified electors* within the boundaries of the district shall be eligible to vote in such referendum. No informalities in the conduct of such referendum or in any matters relative thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

Notice of referendum.

Ballots.

Voter eligibility.

Validity.

(3) The *commission* shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the *commission* shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the *commission* shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district."

Publication of results.

Determination of feasibility.

(4) In making such determination the *commission* shall give due regard and weight to the attitudes of the *qualified electors* lying within the district, the number of land occupiers qualified electors eligible to vote in such referendum who shall have voted, the proportion of the votes

Considerations by commission.

HeinOnline -- 1971 vol. II 1643 1971

cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the *qualified electors* of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in section 76-102; provided, however, that the *commission* shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Majority vote required.

Termination of district affairs.

(5) Upon receipt from the state conservation *commission* of a certification that *the commission* has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the state treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the state conservation *commission,* setting forth the determination of the *commission* that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Disposal of property—proceeds.

Application for discontinuance.

Accounting.

Certificate of dissolution.

Effect of dissolution.

Contract remain in force.

Substitution of parties.

(6) Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The state conservation *commission* shall be substituted for the district or supervisors as party to such contracts. The *commission* shall be

HeinOnline -- 1971 vol. II 1644 1971

entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of section 76-110, nor the pendency of any action instituted under the provisions of such section, and the *commission* shall succeed to all rights and obligations of the district or supervisors as to such liens and actions."

Validation.

Section 12. Section 76-115, R.C.M., 1947, is amended to read as follows:

Amending clause.

"76-115. **Disposition of funds.** A. Unless otherwise provided by law, all moneys which may from time to time be appropriated out of the state treasury to pay the administrative and other expenses of conservation districts organized under the provisions of this act shall be allocated by the state soil conservation commission among the districts already organized, or to be organized, during the ensuing biennial fiscal period, in accordance with the procedure specified in subsection B of this section. All moneys allocated to any district by the said *commission* shall be available to the supervisors of such district for all administrative and other expenses of the district under this act and for all administrative and other expenses of the board of adjustment established or to be established by said district.

Allocation of moneys appropriated.

B. Seventy-five *percent (75%)* of all moneys which may be appropriated to pay the administrative and other expenses of conservation districts shall be allocated by the state conservation *commission* among all the districts organized, or to be organized, within the ensuing biennial fiscal period, under this act, in direct proportion to the total acreage of land within each district. The remaining twenty-five *percent (25%)* of said moneys shall be allocated by the state *commission* among the districts on such basis of allocation as shall be fair, reasonable, and in the public interest, giving due consideration to the greater relative expense of carrying on operations within the particular districts because of such factors as unusual topography, unusual severity of erosion, special difficulty of carrying on operations, special volume of work to be done, and the special importance of instituting erosion control

75% of moneys.

25% of moneys.

HeinOnline -- 1971 vol. II 1645 1971

Retention of moneys required.

operations immediately. In making allocations of such moneys, the *commission* shall retain an amount estimated by it to be adequate to enable it to make subsequent allocations in accordance with the provisions of this section from time to time among districts which may be organized after the initial allocations are made, but within the ensuing biennial fiscal period.

Submission of request for appropriation.

C. The state conservation *commission* shall submit to the state board of examiners, on or before the first *(1st)* day of November of each year preceding a regular session of the legislative assembly a request for an appropriation

Required statements.

as provided in the budget act. The request for an appropriation shall state, in addition to the requirements of the budget act, the following:

The number and acreages of districts in existence or in process of organization, together with an estimate of the number and probable acreages of the districts which may be organized during the ensuing biennial fiscal period; a statement of the balance of funds, if any, available to the *commission* and to the districts; and the estimates of the *commission* as to the sums needed for its administrative and other expenses and for allocation among the several districts during the ensuing biennial fiscal period."

Amending clause.

Section 13. Section 76-117, R.C.M., 1947, is amended to read as follows:

Petition for name change.

"76-117. **Change of district name—division and combination of districts.** (1) Petitions for changing the name of a district organized under this act may be filed with the state conservation *commission*. Any such petition shall be signed by a majority of the district supervisors and shall state the present name of the district and the

Determination.

proposed new name. If the *commission* determines that the proposed new name is not identical with or so similar to that of any other district in the state as to lead to confusion or uncertainty, it shall present a statement of such determination to the secretary of state, who shall issue to the district

Certificate.

a certificate, under the seal of the state, evidencing the change of name of the district. Upon the issuance of such

Notice.

certificate, the supervisors of the district shall cause due notice to be given of the change of the name of the district.

Petition for division or combination.

(2) A petition may be filed with the state *commission* for the division of any district or the combination of any two *(2)* or more districts, or for the division of a district

HeinOnline -- 1971 vol. II 1646 1971

and the combination of any divided part thereof with any other district. Any or all of such actions may be initiated by the filing of a single petition with the *commission*. Any such petition shall be signed by a majority of the members of each of the governing bodies of the affected districts. The *commission* shall prescribe the form for such petition. Upon the filing of any such petition, the *commission* shall within thirty (30) days give due notice of public hearing upon such petition. All *qualified electors* within the affected districts, and all other interested parties, shall have the right to attend such hearing and to be heard. After such hearing, the *commission* shall determine whether the proposed division, the combination or division and combination of territory is administratively practicable and feasible. In making such determination the *commission* shall give due regard to the legislative determinations set forth in section 76-102 and to the considerations enumerated in section 76-105, to the extent applicable, relative to determining the practicability and feasibility of creating a district.

Form.

Notice of public hearing.

Determination of feasibility.

(3) If the *commission* shall determine that the proposed division or combination, or division and combination, is administratively practicable and feasible, the *commission* shall effect such proposed division, combination, or division and combination by filing with the secretary of state a statement certifying the changes made in the boundaries of the affected districts, together with any change in the name of such districts. If such determination is in the negative the *commission* shall make and record such determination and shall deny the petition. After six (6) months from the denial of such petition, a new petition may be filed involving any of such proposals.

Statement of changed boundaries filed with secretary of state.

(4) Upon the division of a district, the supervisors thereof shall allocate the property, rights and liabilities, including contractual obligations, of the district among the resulting parts of the district, giving due consideration to the proportionate size of each such divided part, the number of *qualified electors* and operating units and the degree and extent of soil erosion therein, and other relevant factors. A statement of such allocation shall be filed with the state *commission* within thirty (30) days after the notification of the *commission's* determination in favor of the division of the district. Upon the failure of the supervisors to make, or to agree upon, such allocation, it shall be made

Allocation of property on division.

Statement of allocation.

HeinOnline -- 1971 vol. II 1647 1971

Commission may allocate.

by the *commission* after such hearing as the *commission* may deem necessary, and with due regard for the standards set out in this paragraph for making such allocations."

Amending clause.

Section 14. Section 76-201, R.C.M., 1947, is amended to read as follows:

Filing and recording—notice of creation of district.

"76-201. **Notice of organization of district filed.** The supervisors of a conservation district shall, within ten (10) days after the creation of the district, *or within thirty (30) days after the effective date of this act,* cause a notice declaring the district organized to be filed for record in the office of the county clerk and recorder of each county in which any portion of the district is situated."

Amending clause.

Section 15. Section 76-208, R.C.M., 1947, is amended to read as follows:

Maximum assessment.

"76-208. **Maximum regular assessment.** The regular assessment in any one (1) year shall not exceed one and one-half (1½) mills on the dollar of total taxable valuation of real property within the district *except that cities that voted to be included in a district prior to July 1, 1971, shall, by a majority vote of the council, be excluded from the district.* The valuation shall be determined according to the last assessment roll."

Exclusion of cities.

Amending clause.

Section 16. Section 76-209, R.C.M., 1947, is amended to read as follows:

Annual county levy.

"76-209. **Levy of regular and special assessment.** The board of county commissioners of each county in which there lies any portion of the district may, annually, at the time of levying county taxes, levy an assessment on the taxable real property within the district *except that cities that voted to be included in a district prior to July 1, 1971, shall by a majority vote of the council, be excluded from the district.* It shall be known as the "..... (name of district) conservation district regular assessment", and shall be sufficient to raise the amount reported to them in the estimate of the supervisors.

Designation.

Special assessment.

The board of county commissioners of each county in which there lies any portion of a project area may, annually, at the time of levying county taxes, levy an assessment on the taxable real property within the project area, not to exceed three (3) mills. It shall be known as "..... (name of the project area) special

HeinOnline -- 1971 vol. II 1648 1971

assessment", and shall be sufficient to raise the amount reported to them in the estimate of the supervisors."

Section 17. Section 76-210, R.C.M., 1947, is amended to read as follows: Amending clause.

"76-210. **Computation of rate of assessment.** The board of county commissioners shall determine the rate of assessment by deducting fifteen percent (15%) for anticipated delinquencies from the total assessed value of the taxable real property in the district *except that cities that voted to be included in a district prior to July 1, 1971, shall, by a majority vote of the council, be excluded from the district* and then dividing the sum required to be raised by the remainder of the total assessed value. If a fraction of a cent occurs in a valuation of one hundred dollars ($100) it shall be taken as a full cent." Computation—rate of assessment.

Section 18. Section 76-222, R.C.M., 1947, is amended to read as follows: Amending clause.

"76-222. **Investment of unneeded surplus funds—deposit of funds with depository or bank—surety bond or pledge of securities to ensure payment of deposit.** The board of supervisors of a conservation district may invest any surplus funds of the district, except county tax funds, not needed for immediate use in the operations of the district or its activities, or to pay bonds or coupons, or to meet current expenses, in interest-bearing bonds or securities of the United States or of any agency of the United States if the bonds are guaranteed by the United States, or in bonds of the state of Montana or any county or municipal corporation in said state. The board of supervisors of said district may require any funds of the district to be deposited with such depository or bank as may be designated by the board, and likewise shall have authority to require the treasurer of the district to take from such depository a bond with corporate surety to ensure payment of any such deposit, or to require such depository to pledge securities of the same kind as the district is authorized to invest its funds in, to ensure payment of any such deposit." Investment of surplus funds authorized. Depositories. Surety bond. Pledge of securities.

Section 19. Section 76-223, R.C.M., 1947, is amended to read as follows: Amending clause.

"76-223. **Issuance of bonds authorized—other financing—special elections.** Whenever a board of supervisors Board may issue bonds.

HeinOnline -- 1971 vol. II 1649 1971

deems it necessary, it may issue bonds payable from revenues, assessments, or both, or the district may use other financing as provided for by this act for the cost of works.

Election. The board of supervisors may call a special election to vote upon the proposition of issuing the bonds or may submit the proposition as a special question at a regular

Notice and conduct. or general election. The notice of the election and the election itself shall be carried out in accordance with

Majority vote. section 76-225 of this act. If from the returns of the election it appears that the majority of votes cast at such election were in favor of and assented to the incurring of the indebtedness, then the board of supervisors may,

Resolution. by resolution, provide for the issuance of such bonds. The authorization of such undertaking, the form, and content shall be carried out in accordance with section 11-2404 of

Validity, use of revenue refunding. the Municipal Revenue Bond Act of 1939. Validity of such bonds, use of revenue, and refunding shall be in accordance with the provisions of sections 11-2406, 11-2410, and 11-2414 of the Municipal Revenue Bond Act of 1939. Any bonds issued under this act have the same force, value, and use as bonds issued by a municipality and are exempt from taxation as property within the state of Montana."

Amending clause. Section 20. Section 76-224, R.C.M., 1947, is amended to read as follows:

Petition for project areas. "76-224. **Establishment of project areas upon petition —special assessments.** Whenever the public interest or convenience may require and upon the petition of a county, city, *town*, or by a co-operative grazing association or other special purpose district, or by more than fifty percent (50%) of the *qualified electors* affected thereby the board of supervisors is hereby authorized and empowered to establish project areas for carrying out projects to accomplish one *(1)* or more of the purposes of the district and

Assessments. within which area special assessments can be made for carrying out project purposes."

Amending clause. Section 21. Section 76-225, R.C.M., 1947, is amended to read as follows:

Notice of public hearing. "76-225. **Hearing on petition to establish project area —report of supervisors—election on creation—filing notice of creation.** Upon receipt of a petition to establish a project area the board or boards of supervisors shall cause due notice to be given of a public hearing on the

HeinOnline -- 1971 vol. II 1650 1971

petition. Prior to the hearing the board or boards of supervisors shall make, or cause to be made, an investigation of the need for establishment of the proposed project area and shall prepare a report of their findings. The report shall be presented and read at the hearing on the petition. If the board, or boards, of supervisors finds that it is not feasible, desirable or practical to establish the proposed project area it shall make an order denying the petition and shall state therein its reasons for so doing. If, however, the board finds that the project is desirable, proper and necessary, it shall grant the petition, establish the boundaries of the proposed project area and give due notice of an election to be held in the proposed area for the purpose of determining whether or not the project area shall be created. The question shall be submitted to the electors by ballot on which the words "For creation of proposed project area" and "Against creation of proposed project area" shall appear, with a square before each proposition and directions to insert an "X" mark in the square before one or the other of said propositions as the voters may favor or oppose creation of the project area. No person shall be entitled to vote at the election unless such person possesses all the qualifications required of electors under *Title 23, R.C.M., 1947*, and *resides* within *the boundaries of the proposed project area and* the county in which he proposes to vote. If the majority of the votes cast at the election are in favor of creating a project area, the board, or boards, of supervisors shall create the project area and shall file with the county clerk and recorder in each county in which there lies a portion of the project area a notice of creation of the project area setting forth the purposes of the area and the boundaries thereof."

Investigation and report.

Finding of infeasibility.

Finding of feasibility.

Notice of election.

Ballots.

Voter qualification.

Majority vote—creation of project area.

Section 22. Section 76-226, R.C.M., 1947, is amended to read as follows:

Amending clause.

"76-226. **Protests against proposed projects or creation of project area.** At any time within fifteen (15) days after the date of the last publication of the notice of the hearing on the petition, any owner of property liable to be assessed for the project may protest against the proposed project or the creation of the project area or both. The protest must be in writing and be delivered to the secretary of the conservation district who shall endorse thereon the date of its receipt by him. At the

Landowner may protest.

HeinOnline -- 1971 vol. II 1651 1971

Hearing on petition. public hearing on the petition the board of supervisors shall proceed to hear and pass upon all protests made and its decision shall be final and conclusive; except when owners or more than fifty *percent* (50%) of the land in the proposed project area protest the project. If owners of more than fifty *percent* (50%) of the land protest the project, no further action may be taken for a period of six (6) months from the date of the hearing after which a new petition may be filed."

Protest by owners of 50% or more of land.

Approved March 18, 1971

CHAPTER NO. 432

An Act to Amend Section 75-8601 Relating to Charges for Tuition.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 75-8601 is amended to read as follows:

"Section 42. Section 75-8601. **Charges for tuition — waiver of nonresident fees.** *(1)* The regents may:

Regents may prescribe tuition rates and fees.

(a) prescribe tuition rates, *matriculation charges, and incidental fees for students in institutions under their jurisdiction.*

Waiver. (b) waive at *their* discretion, nonresident tuition for selected and approved nonresident students not to exceed at any unit two percent (2%) of the total number of students enrolled at that unit.

Preference. *(2)* No nonresident student may be admitted to the exclusion of any resident student."

Approved March 18, 1971

CHAPTER NO. 433

An Act to Establish Municipal and Regional Airport Authorities; to Provide for a Tax Levy for Operation Thereof; to Provide for Airport Commissioners; to Provide for the General Power of an Airport Authority; to Provide Powers of Eminent Domain for Issuance of

HeinOnline -- 1971 vol. II 1652 1971

Bonds, and for the Establishment of Operational Uses Privileges; to Provide for Rules and Regulations in Connection with an Airport Authority; to Provide for Acceptance of Federal Aid for Airports; to Provide for Joint Operations of Airport Facilities and to Provide for Municipal Cooperation in Regard to Airport Operation. It is the Intent of the Legislative Assembly That All Sections of This Bill Be Codified in Title 1, Chapter 9, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-901. **Definitions.** The following words or terms whenever used or referred to in this chapter shall have the following respective meanings unless different meanings clearly appear from the context: Definitions.

1. "Municipality" shall mean any county, city, town or public body of this state; "Municipality."

2. "Municipal airport authority" or "municipal authority" shall mean a municipal airport authority created pursuant to the provisions of section 1-904 of this chapter; "Municipal airport authority" or "municipal authority."

3. "Regional airport authority" or "regional authority" shall mean a regional airport authority created pursuant to the provisions of section 1-905 of this chapter; "Regional airport authority" or "regional authority."

4. "Airport authority" or "authority" shall mean any regional airport authority or municipal airport authority created pursuant to the provisions of this chapter, and the governing body of a municipality which has determined to exercise the powers of a municipal airport authority, pursuant to section 1-904; "Airport authority" or "authority."

5. "Governing body" shall mean bodies and boards by whatsoever names they may be known, having charge of finances and management of a municipality; "Governing body."

6. "Clerk" shall mean the custodian of the official records of a municipality; "Clerk."

7. "Bonds" shall mean any bonds, notes, interim certificates, debentures, or similar obligations issued by an authority pursuant to this chapter; "Bonds."

8. "Airport" shall mean any area of land or water "Airport."

HeinOnline -- 1971 vol. II 1653 1971

which is used, or intended for use, for the landing and taking off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, including approaches and clear zones, together with all airport buildings and facilities located thereon;

"Air navigation facility."

9. "Air navigation facility" shall mean any facility—other than one owned and operated by the United States—used in, available for use in, or designed for use in aid of air navigation, including any structures, buildings, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices, used or useful as an aid, or constituting an advantage or convenience, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities;

"Airport hazard."

10. "Airport hazard" shall mean any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing and taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft;

"Person."

11. "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof;

"Real property."

12. "Real property" shall mean lands, structures, buildings, and interests in land, including lands under water and riparian rights, and any and all things and rights usually included within the term real property, including not only fee simple absolute but also any and all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real property; and

"Project."

13. "Project" shall mean any airport operated by the authority, including all real and personal property, structures, buildings, machinery, equipment, and appurtenances or facilities which are part of such airport or used or useful in connection therewith either as ground facilities for the convenience of handling aviation equipment, passengers and freight or as part of aviation operation air navigation, and air safety operation.

HeinOnline -- 1971 vol. II 1654 1971

Section 2. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-902. **Aeronautics commission may exercise powers of airport authority — exceptions.** The Montana aeronautics commission shall have all powers of an airport authority as defined in this chapter, except powers to certify or levy taxes or issue bonds, for constructing and operating public airports or landing fields near international border ports of entry, and near state or national parks or near or in recreational areas as the aeronautics commission may determine to be in the public interest.

Powers of Montana aeronautics commission.

Section 3. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-903. **Airport operation and income.** The aeronautics commission shall have operational control of airports constructed under the provisions of section 1-902 and may provide for the imposition of landing fees, granting of fuel and service concessions, or the lease of portions of the premises for other related airport services or for purposes not inconsistent with the use of the premises for airport purposes. All income from the operation of such airports shall be deposited in the state treasury in a special operating fund to be known as the airport operating fund. All expenditures from such fund shall be within the limits of legislative appropriations and shall be made upon vouchers, signed and approved by the director of the aeronautics commission.

Operational control of airports.

Landing fees.

Concessions—leases.

Deposit of income.

Expenditures.

Section 4. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-904. **Creation of municipal airport authority.** Any municipality may, by resolution of its governing body, create a public body corporate and politic to be known as a municipal airport authority, which shall be authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof; or the governing body may by resolution determine to exercise any or all powers granted to such authorities in this chapter until or unless such powers are or have been conferred upon a municipal or regional airport authority. Upon the adoption of a resolution creating a municipal airport authority, the governing body of the municipality shall, pursuant to the resolution, appoint five (5) persons as

Municipality may create municipal airport authority.

Resolution.

Appointment—five commissioners.

HeinOnline -- 1971 vol. II 1655 1971

Term of office.

Vacancies.

commissioners of the authority. The commissioners who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4), and five (5) years, respectively, but thereafter, each commissioner shall be appointed for a term of five (5) years, except that vacancies occurring otherwise than by expiration of the term shall be filled for the unexpired term by the governing body.

Section 5. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

Two or more municipalities may create regional airport authority—joint resolution.

1-905. **Creation of regional airport authority.** 1. Two (2) or more municipalities may, by joint resolution create a public body, corporate and politic, to be known as a regional airport authority that the resolution creating a regional airport authority shall create a board of not less than five (5) commissioners; the number to be appointed, their term and compensation, if any, shall be provided for in the resoltion. Each such regional airport authority shall organize, select officers for terms to be fixed by agreement and adopt and amend from time to time rules for its own procedure not inconsistent with section 1-908.

Organization.

Increase to serve additional municipalities.

Joint resolution.

Consent to inclusion.

2. A regional airport authority may be increased from time to time to serve one (1) or more additional municipalities if each additional municipality and each of the municipalities then included in the regional authority, respectively, adopt a joint resolution consenting thereto; provided, that if a municipal airport authority for any municipality seeking to be included in the regional authority is then in existence, the commissioners of the municipal authority must consent to the inclusion of the municipality in the regional authority. Upon the inclusion of any municipality in the regional authority, all rights, contracts, obligation, and property, real and personal, of the municipal authority shall be in the name of and vest in the regional authority.

Decrease.

Consent.

3. A regional airport authority may be decreased if each of the municipalities then included in the regional authority and the commissioners of the regional authority consent to the decrease and make provisions for the retention or disposition of its assets and liabilities.

Public hearing.

4. A municipality shall not adopt any resolution

HeinOnline -- 1971 vol. II 1656 1971

authorized by this section without a public hearing thereon. Notice thereof shall be given at least ten (10) days prior thereto in a newspaper published in the municipality, or if there is no newspaper published therein, then in a newspaper having general circulation in the municipality.

Notice—publication.

Section 6. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-906. **Sinking funds for repair, maintenance and capital outlays.** An airport authority may create a sinking fund and accumulate therein the sum of five million dollars ($5,000,000) together with interest thereon for the use, repairs, maintenance and capital outlays of an air navigation facility.

Airport authority sinking fund.

Section 7. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-908. **Commissioners — compensation — meetings — officers.** A commissioner of an authority shall be entitled to the necessary expense, including travel expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. The certificates of the appointment and reappointment of commissioners shall be filed with the authority.

Commissioner's expenses.

Term.

Filing certificates.

The powers of each authority shall be vested in the commissioners thereof. A majority of the commissioners of an authority shall constitute a quorum for the purpose of conducting business of the authority and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of not less than a majority of the commissioners present.

Powers vested in commissioners.

Quorum.

Majority.

There shall be elected a chairman and vice-chairman from among the commissioners. An authority may employ an executive director, secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. An authority may delegate to one (1) or more of its agents or employees such powers or duties as it may deem proper.

Chairman, vice-chairman.

Employment of personnel.

Delegation.

Section 8. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

HeinOnline -- 1971 vol. II 1657 1971

General powers.

1-909. **General powers of an authority.** An authority shall have all the powers necessary or convenient to carry out the purposes of this chapter including the power to certify, annually to the governing bodies creating it, the amount of tax to be levied by said governing bodies for airport purposes including, but not limited to, the power:

1. To sue and be sued; to have a seal; and to have perpetual succession;

Contracts.

2. To execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes of this chapter;

Airports and navigation facilities.

3. To plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities, within this state and within any adjoining state, including the acquisition, construction, installation, equipment, maintenance, and operation at such airports or buildings and other facilities for the servicing of aircraft or for comfort and accommodation of air travelers, and the purchase and sale of supplies, goods, and commodities as are incident to the operation of its airport properties.

Acquisition of property.

For such purposes an authority may by purchase, gift, devise, lease, eminent domain proceedings or otherwise, acquire property, real or personal, or any interest therein, including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit the removal, elimination, obstruction-marking or obstruction-lighting of airport hazards or to prevent the establishment of airport hazards.

Airport zoning.

4. To establish comprehensive airport zoning regulations in accordance with the laws of this state. For the purpose of this chapter, a regional airport authority shall have the same powers as all other political subdivisions in the adoption and enforcement of comprehensive airport zoning regulations as provided for by the laws of this state.

Acquisition of existing airports and facilities.

5. To acquire, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, existing airports

HeinOnline -- 1971 vol. II 1658 1971

and air navigation facilities, provided, however, an authority shall not acquire or take over any airport or air navigation facility owned or controlled by another authority, a municipality, or public agency of this or any other state without the consent of such authority, municipality or public agency.

6. To establish or acquire and maintain airports in, over, and upon any public waters of this state, any submerged lands under such public waters provided that the authority has obtained the approval of the owner or agency that controls the water; and to construct and maintain terminal buildings, landing floats, causeways, roadways, and bridges for approaches to or connecting with any such airport, and landing floats and breakwaters for the protection thereof. Water airports.

Section 9. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-910. **Eminent domain.** In the acquisition of property by eminent domain proceedings authorized by this chapter, an airport authority shall proceed in the manner provided by the laws of this state, and such other laws that may now or hereafter apply to the state or to political subdivisions of this state in exercising the right of eminent domain. The municipality shall not be precluded from abandoning such proceedings in any case where possession of the property has not been taken. Procedure—eminent domain.

Section 10. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-911. **Disposal of airport property.** Except as may be limited by the terms and conditions of any grant, loan or agreement, authorized by section 1-915 of this chapter, an authority, may, by sale, lease, or otherwise, dispose of any airport, air navigation facility or other property, or portion thereof or interest therein, acquired pursuant to this chapter. Such disposal by sale, lease, or otherwise, shall be in accordance with the laws of this state governing the disposition of other public property, except that in the case of disposal to another authority, a municipality or an agency of the state or federal government for use and operation as a public airport, the sale, lease, or other disposal may be affected in such manner Disposition of property.

HeinOnline -- 1971 vol. II 1659 1971

and upon such terms as the commissioners of the authority may deem in the best interest of civil aviation.

Section 11. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

Authority to borrow money—issue bonds.

1-912. **Bonds and other obligations.** An authority shall have the power to borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources, which bonds may be sold at public or private sale which shall bear interest at a rate or rates not exceeding ten per centum (10%) per annum.

Payable from revenues.

Any bonds issued pursuant to this chapter by an authority, shall be payable as to principal and interest, solely from revenues of an airport or air navigation facility or facilities, and shall so state on their face any applicable limitation or restriction and that said bonds shall be issued as set forth in Title 11, chapter 24, R.C.M. 1947.

Tax exemption.

Bonds issued by an authority or municipality pursuant to the provisions of this chapter are declared to be issued for an essential public and governmental purpose and, together with interest thereon, and income therefrom, shall be exempt from all taxes.

Security.

For the security of any such bonds the authority or municipality may by resolution make and enter into any covenant, agreement, or indenture authorized to be made as security for revenue bonds. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be made payable from any and all revenues referred to in this chapter prior to the payment of current costs of operation and maintenance of the facilities. Whenever bonds are issued under this chapter and made payable from revenues of an airport involving municipalities with over ten thousand (10,000) population, the governing body of the municipality shall be required, in the event that at any time all revenues, including taxes, appropriated and theretofore collected for such bonds are insufficient to pay

Tax levy.

principal or interest then due, to levy a general tax upon all of the taxable property in the municipality for the payment of such deficiency and at any time a deficiency is likely to occur within one (1) year for the payment of

HeinOnline -- 1971 vol. II 1660 1971

principal and interest due on such bonds, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency, and such taxes shall not be subject to any limitation of rate or amount applicable to other municipal taxes, provided that the initial resolution authorizing bonds for airport financing shall be published in the official paper, and any owner of taxable property within the municipality may within sixty (60) days after such publication file a protest against the adoption of the resolution. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to twenty percent (20%) or more of the assessed valuation of all taxable property within the municipality, all further proceedings under such initial resolution shall be barred.

Publication of initial resolution.

Protest.

Findings.

Proceedings barred.

Section 12. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-913. **Operation and use privileges.** 1. In connection with the operation of an airport or air navigation facility owned or controlled by an authority, the authority may enter into contracts, leases, and other arrangements for terms not to exceed thirty (30) years with any persons:

Contracts—maximum term—30 years.

a. Granting the privilege of using or improving the airport or air navigation facility or any portion or facility thereof of space therein for commercial purposes;

b. Conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility; and

c. Making available services to be furnished by the authority or its agents at the airport or air navigation facility.

In each case the authority may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class or privilege of service and shall be established with due regard to the property and improvements used and the expenses of operation to the authority; provided that in no case shall the public be

Public use.

HeinOnline -- 1971 vol. II 1661 1971

deprived of its rightful, equal, and uniform use of the airport, air navigation facility, or portion of facility thereof.

Grant of authority to operate airport.

2. Except as may be limited by the terms and conditions of any grant, loan, or agreement authorized by section 1-919 of this chapter, an authority may by contract, lease, or other arrangements, upon a consideration fixed by it, grant to any qualified person for a term not to exceed thirty (30) years the privilege of operating, as agent of the authority or otherwise, any airport owned or controlled by the authority; provided that no person shall be granted any authority to operate an airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the authority might not have undertaken under subsection 1 of this section.

Section 13. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

Rules and regulations.

1-914. **Regulations.** An authority is authorized to adopt, amend, and repeal such reasonable resolutions, rules, regulations, and orders as it shall deem necessary for the management, government, and use of any airport or air navigation facility owned by it or under its control. No rule, regulation, order, or standard prescribed by the commission shall be inconsistent with, or contrary to, any act of the Congress of the United States or any regulation promulgated or standard established pursuant thereto. The authority shall keep on file at the principal office of the authority for public inspection a copy of all its rules and regulations.

Public records.

Section 14. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

Authority to accept grants and loans.

1-915. **Federal and state aid.** 1. An authority is authorized to accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both, to accomplish, in whole or in part, any of the purposes of this chapter. All federal moneys accepted under this section shall be accepted and expended by the authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section shall be

HeinOnline -- 1971 vol. II 1662 1971

accepted and expended by the authority upon such terms and conditions as are prescribed by the state.

Designation—state aeronautics commission as agent.

2. An authority is authorized to designate the state aeronautics commission as its agent to accept, receive, receipt for, and disburse federal and state moneys, and other moneys, public or private, made available by grant or loan or both, to accomplish in whole or in part, any of the purposes of this chapter; and to designate the state aeronautics commission as its agent in contracting for and supervising the planning, acquisition, development, construction, improvement, maintenance, equipment, or operation of any airport or other air navigation facility. An authority may enter into an agreement with the aeronautics commission prescribing the terms and conditions of the agency in accordance with such terms and conditions as are prescribed by the United States, if federal money is involved, and in accordonce with the applicable laws of this state. All federal moneys accepted under this section by the state aeronautics commission shall be accepted and transferred or expended by said commission upon such terms and conditions as are prescribed by the United States. All moneys received by the state aeronautics commission pursuant to this subsection shall be deposited in the state treasury, and unless otherwise prescribed by the agency from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes.

Agency agreement.

Deposit of moneys.

Section 15. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

Authority may certify amount of annual tax levy.

1-916. **Tax levy may be certified by airport authority or municipality.** The airport authority may certify annually to the governing bodies, the amount of tax to be levied by each municipality participating in the creation of the airport authority, and the municipality may levy the amount certified, pursuant to provisions of law authorizing cities and other political subdivisions of this state to levy taxes for airport purposes. The levy made shall not exceed the maximum levy permitted by the laws of this state for airport purposes. The municipality shall collect the taxes certified by an airport authority in the same manner as other taxes are levied and collected and make payment to the airport authority.

Maximum.

Collection.

HeinOnline -- 1971 vol. II 1663 1971

Deposit.

The proceeds of such taxes when and as paid to the airport authority shall be deposited in a special account or accounts in which other revenues of the authority are deposited and may be expended by the authority as provided for in this chapter. Prior to the issuance of bonds under section 1-912 the airport authority or the municipality may by resolution covenant and agree that the total amount of such taxes then authorized by law, or such portion thereof as may be specified by the resolution, will be certified, levied and deposited annually as herein provided, until the bonds and interest thereon are fully paid.

Section 16. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

County levy for airport purposes.

1-917. **County tax levy for airport purposes.** In counties supporting airports or airport authorities, a levy, as provided for in section 1-804, R.C.M. 1947, may be made for such purposes.

Section 17. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

"Public agency" defined.

1-918. **Joint operations.** 1. For the purposes of this section, unless otherwise qualified, the term "public agency" includes municipality and authority, each as defined in this chapter, any agency of the state government and of the United States, and any municipality, political subdivision or agency of an adjoining state;

"Governing body" defined.

and the term "governing body" includes commissioners of an authority, the governing body of a municipality, and the head of an agency of a state or the United States if the public agency is other than an authority or municipality.

Joint exercise and enjoyment—powers and privileges.

All powers, privileges, and authority granted by this chapter may be exercised and enjoyed by an authority jointly with any public agency of this state, and jointly with any public agency of any adjoining state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise of enjoyment. Any agency of the state government, when acting jointly with any authority, may exercise and enjoy all the powers, privileges, and authority conferred by this chapter upon an authority.

Two or more public agencies may enter agreements.

2. Any two (2) or more public agencies may enter into agreements with each other for joint action pursuant to the provisions of this section. Each agreement shall

HeinOnline -- 1971 vol. II 1664 1971

specify its duration, the proportionate interest which each public agency shall have in the property, facilities, and privileges involved in the joint undertaking, the proportion of costs of operation, capital outlay, and maintenance, to be borne by each public agency, and such other terms as are deemed necessary or required by law. The agreement may also provide for amendments and termination; disposal of all or any of the property, facilities, and privileges jointly owned, prior to, or at such times as said property, facilities, and privileges, or any part thereof, cease to be used for the purposes provided in this chapter, or upon termination of the agreement; the distribution of the proceeds received upon any disposal, and of any funds or other property jointly owned and undisposed of; the assumption of payment of any indebtedness arising from the joint undertaking which remains unpaid upon the disposal of all assets or upon a termination of the agreement; and such other provisions as may be necessary or convenient.

Creation—joint board.

3. Public agencies acting jointly pursuant to this section shall create a joint board which shall consist of members appointed by the governing body of each participating public agency. The number to be appointed, their term and compensation, if any, shall be provided for in the joint agreement. Each joint board shall organize, select officers for such terms as are fixed by the agreement, and adopt and amend from time to time rules for its own procedure. The joint board shall have power, as agent of the participating public agencies, to plan, acquire, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police any airport or air navigation facility or airport hazard to be jointly acquired, controlled, and operated, and the board may be authorized by the participating public agencies to exercise on behalf of its constituent public agencies all the powers of each with respect to the airport, air navigation facility or airport hazard, subject to the limitations of subsection 4 of this section.

Organization.

Powers.

Expenditures.

Budget.

4. a. The total expenditures to be made by the joint board for any purpose in any calendar year shall be as determined by a budget approved by the constituent public agencies on or before the preceding June 10, or as otherwise specifically authorized by the constituent public agencies.

HeinOnline -- 1971 vol. II 1665 1971

Approval required.

b. No airport, air navigation facility, airport hazard, or real or personal property, the cost of which is in excess of sums fixed therefor by the joint agreement or allotted in the annual budget may be acquired, established, or developed by the joint board without the approval of the governing bodies of its constituent public agencies.

Eminent domain proceedings.

c. Eminent domain proceedings under this section may be instituted by the joint board only by authority of the governing bodies of the constituent public agencies of the joint board. If so authorized, such proceedings shall be instituted in the names of the constituent public agencies jointly, and the property so acquired shall be held by said public agencies as tenants in common.

Consent required for disposal of property.

d. The joint board shall not dispose of any airport, air navigation facility, or real property under its jurisdiction except with the consent of the governing bodies of its constituent public agencies, provided that the joint board may, without such consent, enter into contracts, leases, or other arrangements contemplated by section 1-913 of this chapter.

Approval of resolutions, rules, regulations and orders.

e. Any resolutions, rules, regulations, or orders of the joint board dealing with subjects authorized by section 1-913 of this chapter shall become effective only upon approval of the governing bodies of the constituent public agencies, provided that upon such approval, the resolutions, rules, regulations, or orders of the joint board shall have the same force and effect in the territories or jurisdictions involved as the ordinances, resolutions, rules, regulations, or orders of each public agency would have in its own territory or jurisdiction.

Creation—joint fund.

5. For the purpose of providing the joint board with moneys for the necessary expenditures in carrying out the provisions of this section, a joint fund shall be created and maintained, into which shall be deposited the share of each of the constituent public agencies as provided by the joint agreement. Any federal, state, or other grants, contributions, or loans, and the revenues obtained from the joint ownership, control, and operation of any airport or air navigation facility under the jurisdiction of the joint board shall be paid into the joint fund. Disbursements from such fund shall be made by order of the board, subject to the limitations prescribed in subsection 4 of this section.

HeinOnline -- 1971 vol. II 1666 1971

Section 18. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

Public purpose—public necessity.

1-919. **Public purpose.** The acquisition of any land, or interest therein, pursuant to this chapter, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of airports and air navigation facilities, including the acquisition or elimination of airport hazards, and the exercise of any powers herein granted to authorities and other public agencies to be severally or jointly exercised, are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of any authority or other public agency in the manner and for the purposes enumerated in this chapter shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

Section 19. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

Tax exemption.

1-920. **Airport property and income exempt from taxation.** Any property in this state acquired by an authority for airport purposes pursuant to the provisions of this chapter, and any income derived by the authority from the ownership, operation, or control thereof, shall be exempt from taxation to the same extent as other property used for public purpose.

Section 20. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

Municipality may cooperate.

1-921. **Municipal cooperation.** For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of airports and air navigation facilities pursuant to the provisions of this chapter, any municipality for which an authority has been created may, upon such terms, with or without consideration, as it may determine,

Money.

1. Lend or donate money to the authority;

Portion of taxes.

2. Provide that all or a portion of the taxes of funds available or to become available to, or required by law to be used by, the municipality for airport purposes, be

HeinOnline -- 1971 vol. II 1667 1971

transferred or paid directly to the airport authority as such funds become available to the municipality;

Facilities.

3. Cause water, sewer, or drainage facilities, or any other facilities which it is empowered to provide, to be furnished adjacent to or in connection with such airports or air navigation facilities;

Property.

4. Dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to the authority;

Streets and roads.

5. Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, and walks from established streets or roads to such airports or air navigation facilities;

Other acts.

6. Do any and all things, whether or not specifically authorized in this section and not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with the authority in the planning, undertaking, construction, or operation of airports and air navigation facilities; and

Agreements.

7. Enter into agreements with the authority respecting action to be taken by the municipality pursuant to the provisions of this section.

Section 21. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-922. **Out-of-state airport jurisdiction authorized — reciprocity with adjoining state and governmental agencies.** For the purpose of this section, "governmental agency" means any municipality, city, town, county, public corporation, or other public agency.

"Governmental agency" defined.

Out-of-state authority.

This state or any governmental agency of this state having any powers with respect to planning, establishing, acquiring, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, or protecting airports or air navigation facilities within this state, may exercise those powers within any state or jurisdiction adjoining this state, subject to the laws of that state or jurisdiction.

Other states.

Any state adjoining this state or any governmental agency thereof may plan, establish, acquire, develop, construct, enlarge, improve, maintain, equip, operate,

HeinOnline -- 1971 vol. II 1668 1971

regulate, and protect airports and air navigation facilities within this state, subject to the laws of this state applicable to airports and air navigation facilities. The adjoining state or governmental agency shall have the power of eminent domain in this state, which shall be exercised in the manner provided by the laws of this state governing condemnation proceedings, provided that the power of eminent domain shall not be exercised unless the adjoining state authorizes the exercise of that power therein by this state or any governmental agency thereof having any of the powers mentioned in this section.

Reciprocity—eminent domain.

The powers granted in this section may be exercised jointly by two (2) or more states or governmental agencies, including this state and its governmental agencies, in such combination as may be agreed upon by them.

Combinations.

This section may be cited as the "Extraterritorial Airports Section".

"Extraterritorial airports section."

Section 22. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-923. **Supplemental authority.** In addition to the general and special powers conferred by this chapter, every authority is authorized to exercise such powers as are necessary incidental to the exercise of such general and special powers.

Supplemental authority.

Section 23. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-924. **Savings clause — airport zoning.** Nothing contained in this chapter shall be construed to limit any right, power, or authority of a municipality to regulate airport hazards by zoning.

Municipal zoning.

Section 24. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-925. **Short title.** This chapter may be cited as the "Airport Authorities Act".

"Airport authorities act."

Section 25. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

1-926. **Repealing clause.** All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

HeinOnline -- 1971 vol. II 1669 1971

Section 26. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

Severability clause.

1-927. **Severability clause.** It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one (1) or more of its applications, the part that remains in effect in all valid applications are severable from the invalid applications.

Section 27. There is added a new section to Title 1, R.C.M. 1947, which is to read as follows:

Effective immediately.

1-928. **Effective date.** This act is effective upon its passage and approval.

Approved March 18, 1971

CHAPTER NO. 434

An Act Establishing Certificates of Ownership and Records of Theft of Snowmobiles, Regulating Operation of Snowmobiles, Providing Exemptions, Transfer of Interest, Prohibiting Licensing and Registration by Political Subdivisions, Establishing Enforcement, and Providing Penalties for any Violation of This Act; Repealing Sections 53-1001 Through 53-1011, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. **Definition of terms.** As used in this act, the following terms shall have the meanings indicated herein, unless the context otherwise clearly requires that another meaning be intended:

"Person."

(a) "Person" includes an individual, partnership, association, corporation, and any other body or group of persons, whether incorporated or not, and regardless of the degree of formal organization.

"Snowmobile."

(b) "Snowmobile" includes any self-propelled vehicle designed primarily for travel on snow or ice or natural terrain, which may be steered by wheels, skis, or runners, and which is not otherwise registered or licensed under the laws of the state of Montana.

HeinOnline -- 1971 vol. II 1670 1971

(c) "Owner" shall include every person as defined herein, other than a lien holder or other person having a security interest only, holding record title to a snowmobile, and entitled to the use or possession thereof. "Owner."

(d) "Operator" shall include every person who operates or is in actual physical control of the operation of a snowmobile. "Operator."

(e) "Roadway" shall include only those portions of any highway, road or street improved, designed, or ordinarily used for travel or parking of motor vehicles. "Roadway."

(f) "Commission" means the fish and game commission of the state of Montana. "Commission."

Section 2. **Certificate of ownership.** (1) No snowmobile shall be operated upon any public or private lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets or highways, unless it has first been registered with the state board of equalization in accordance with the laws of this state. Registration of snowmobile required.

(2) Before such registration may be accomplished, the owner of a snowmobile shall make application for a certificate of ownership with the county treasurer of the county in which the owner resides, upon forms to be furnished for this purpose, and to provide for substantially the following information: Name of owner, residence by town and county, business or home mail address, name and address of lien holder, amount due under contract or lien, name and address of manufacturer, model number or name, serial number, and name and address of dealer or other person from whom acquired. The application shall be signed by at least one owner, or by a properly authorized officer or representative of the owner. Application—certificate of ownership.

(3) If a snowmobile has previously been registered, under the provisions of this act, the application for registration must be accompanied by the immediately previous registration receipt, or by an affidavit upon a prescribed form, stating under oath that the vehicle had not been operated during the immediately previous year; provided, however, that this paragraph shall not be applicable to snowmobiles that are purchased as new and unused machines or that were operated when the provisions of this act were not in force and effect. Prior registration.

HeinOnline -- 1971 vol. II 1671 1971

County treasurer issues "owner's certificate of registration."

(4) Upon completion of the application of registration, in quintuplicate, on forms furnished by the registrar of motor vehicles, the county treasurer shall issue to the applicant two copies of the application marked "owner's certificate of registration", one of which shall be marked "file copy", and forward one copy and the application to the registrar of motor vehicles, who shall cause to be entered the information contained in the application upon the corresponding records of his office, and shall furnish the applicant a certificate of ownership, which shall contain the information found on the registration, and the owner shall, at all times, retain possession of the certificate of ownership, except when the same is being transmitted to and from the registrar of motor vehicles for endorsement or cancellation.

Fee $2.

(5) Upon application for an owner's certificate of registration, a fee of two dollars ($2) shall be paid to the county treasurer, one-half (½) of which fee shall be forwarded by the county treasurer to the registrar of motor vehicles.

Registration decal.

(6) Before a registration decal may be applied for pursuant to the laws of this state, the owner must present the owner's certificate of ownership, or copy of completed application therefor, as a prerequisite to completing the application for the registration decal.

Transfer of title—procedure.

Section 3. **Transfer of title or interest.** (1) Upon a transfer of any title or interest of an owner or owner in or to a snowmobile, registered under the provisions of this act as hereinbefore required, the person or persons whose title or interest is to be transferred shall write their signatures with pen and ink upon the certificate of ownership issued for such vehicle, in the appropriate space provided upon the reverse side of such certificate, and such signature shall be acknowledged before a notary public.

Filing with registrar of motor vehicles.

(2) Within ten (10) days thereafter, the transferee shall forward both the certificate of ownership so endorsed and the certificate of registration, together with the information required under this act, to the registrar, who shall file the same upon receipt thereof and no certificate of ownership and certificate of registration shall be issued by the registrar of motor vehicles until the outstanding certificates are surrendered to that of-

HeinOnline -- 1971 vol. II 1672 1971

fice or their loss established to his reasonable satisfaction. The registrar of motor vehicles shall collect a fee of two dollars ($2) for each application for transfer of ownership. Fee $2.

(3) The provisions of subdivision (2) of this section, requiring a transferee to forward the certificate of ownership after endorsement and the certificate of registration to the registrar, shall not apply in the event of the transfer of a snowmobile to a duly licensed snowmobile dealer intending to resell such vehicle and who operates the same only for demonstration purposes, but every such dealer shall upon transferring such interest deliver such certificate of ownership and certificate of reigstration with an application for registration executed by the new owner in accordance with the provisions of this act, and the registrar upon receipt of said certificate of ownership, certificate of registration and application for registration, together with the conditional sales contract or other lien, if any, shall issue a new certificate of ownership and certificate of registration together with a statement of any conditional sales contract, mortgage, or other lien. Dealer exemption. Dealer transfer of interest—procedure. Registrar issues new certificate.

Section 4. **Lost or mutilated certificates.** In the event any certificate of registration or ownership shall be lost, mutilated or become illegible, the persons to whom the same shall have been issued shall immediately make application for and may obtain a duplicate thereof, upon payment of a fee of one dollar ($1). Duplicates. Fee $1.

Section 5. **Exemptions.** (1) The provisions of this act, with respect to registration and certification of title, shall not apply to snowmobiles owned or used by the United States or another state or any agency or political subdivision thereof, or any snowmobile registered in a country other than the United States and to be temporarily used within this state for a period of not more than thirty (30) days, or any snowmobile registered in another state of the United States, but to be temporarily used within this state for not more than thirty (30) days. Snowmobiles owned by the state of Montana, or any agency or political subdivision thereof, shall be exempt only from the payment of fees, but shall otherwise comply with all the requirements of this act. Exemptions.

(2) No political subdivisions of this state shall have Other fees prohibited.

HeinOnline -- 1971 vol. II 1673 1971

authority to prescribe further licensing or registration of snowmobiles and no political subdivision shall levy fees or charges for use or operation of snowmobiles within the subdivision.

Duty to report stolen and recovered snowmobiles.

Section 6. **Report of stolen and recovered snowmobiles.** It shall be the duty of the sheriff of every county of the state and of the chief of police or commissioner of police of every city to make immediate report to the registrar of motor vehicles of all snowmobiles reported to him as stolen or recovered, upon forms provided for by the registrar of motor vehicles. Failure on the part of any officer shall be deemed to be misfeasance in office and shall constitute grounds for removal. Upon receipt of such information, the registrar of motor vehicles shall file the same in an index to be known as the "stolen and recovered snowmobile index". It shall also be the duty of the registrar of motor vehicles to file reports of stolen and recovered snowmobiles reported to him from other states. The registrar of motor vehicles shall prepare once a month a list of all snowmobiles stolen or recovered during the previous month and forward a copy of the same to every sheriff, and all police departments in cities of the first, second and third class. Such list shall also be forwarded to the secretary of state, or other proper official, in each state of the United States. Before a certificate of title, as heretofore provided, shall be issued under this act, the motor and serial number on the motor vehicle to be registered shall be checked against the "stolen and recovered snowmobile index".

Indexing records.

Monthly lists supplied to sheriffs and police.

Out-of-state distribution.

Cross check.

Limitations on highway use.

Section 7. **Operation on public roads and streets.** (1) No person shall operate a snowmobile upon a controlled-access highway or facility at any time. Snowmobile operation may be permitted on the roadway or shoulder of any other public road or highway, state highway, county road, or city street located within the boundaries of any municipality, only in the event that said street, road, or highway is drifted or covered by snow to such an extent that travel thereon by other motor vehicles is impractical or impossible, or when the operator is in possession of a written permit for such travel, issued by the municipality in the case of town or city streets, the board of county commissioners for county roads, or the state highway patrol for all other highways, or upon those streets of a municipality where

Permit.

HeinOnline -- 1971 vol. II 1674 1971

such operation has been specifically so authorized by a duly enacted municipal ordinance.

Crossings.

(2) A snowmobile may make a direct crossing of a street or highway, where such crossing is necessary to get to another authorized area of operation. Such crossing shall be made at an angle of approximately ninety degrees (90°) to the direction of the highway, at a place where no obstruction prevents a quick and safe crossing. The snowmobile shall make a complete stop before entering upon any part of the highway or road, and the operator shall yield the right of way to all oncoming traffic.

Duty to stop.

Lighting required.

(3) No snowmobile shall be operated upon a public street or highway when permitted to do so by this act, unless equipped with at least one head lamp and one tail lamp, which shall be lighted at all times during such operation, and unless equipped with a suitable braking device which may be operated by either hand or foot.

Driver's license required.

(4) The operator of a snowmobile who operates his vehicle upon a public roadway, street or highway when allowed to do so under the provisions of this act shall have in his possession a license to drive a motor vehicle as required by the laws of the state of Montana. An operator who crosses a street, road, or highway, or who operates a snowmobile in any other areas of the state where operation is lawfully permitted, shall not be required to apply for or possess a driver's license under the laws of the state of Montana.

Exemption.

Section 8. **Unlawful operation on streets and highways.** It shall be unlawful for any person to drive or operate any snowmobile upon a public street or highway in any one or more of the following manners:

Unlawful operation.

(1) At a rate of speed greater than provided by law for motor vehicles.

(2) While under the influence of intoxicating liquor or narcotics or habit-forming drugs.

(3) In a careless or reckless manner so as to endanger the person or property of another, or to cause injury or damage to either.

(4) Without a lighted head and tail light between the hours of dusk and dawn.

HeinOnline -- 1971 vol. II 1675 1971

(5) Operating a snowmobile, or permitting such operation, by any person who by reason of age or physical or mental disability is incapable of operating the snowmobile as required for safety under the prevailing circumstances.

Unlawful acts.

Section 9. **Other unlawful operation.** No person while operating a snowmobile, shall use the same:

Driving game.

(1) For the purpose of driving, rallying or harassing any of the game animals, game birds, or fur-bearing animals of the state, or any livestock, provided, however, that an owner of livestock is not prohibited from managing or driving his own livestock by the use of snowmobiles and may direct other persons to so manage or drive his livestock:

Exemption—livestock management.

Use of firearms.

(2) To discharge a firearm from or upon a snowmobile.

Noise suppression requirements.

(3) Regulation of snowmobile noise. (a) Except as provided in this section, every snowmobile shall be equipped at all times with noise suppression devices, including an exhaust muffler, in good working order and in constant operation, adequate to comply with the specifications required by the rules and regulations; provided, that the commission may in its discretion establish separate and different rules and regulations applicable to new snowmobiles sold after a date selected by the commission, which shall not be later than June 30, 1972. In any event, from and after June 30, 1972, no new snowmobile, except snowmobiles designed for competition purposes only, shall be sold, or offered for sale, unless such vehicle is certified by the manufacturer as being able to conform with the sound level limitation of not more than eighty-five (85) decibels on a scale "A" (dBA) at fifteen (15) feet. Sound pressure levels in decibels shall be measured on "A" scale of a sound level meter having characteristics defined by American standards association S1, 4-1966 "General Purpose Sound Meter". Measurements shall be made in accordance with applicable practices outlined in the "Procedure for Sound Level Measurements of Snowmobiles" used by the international snowmobile industry association (January, 1969), or with such other standards for measurement of sound level as the commission may adopt.

June 30, 1972.

Measurements.

HeinOnline -- 1971 vol. II 1676 1971

June 30, 1972 notice of lack of equipment.

(b) After a date selected by the commission, but not later than June 30, 1972, no new snowmobile not equipped with noise suppression devices adequate to comply with the specifications required by the rules and regulations of the commission or the specification set forth in the preceding paragraph, whichever are more restrictive, shall be sold or offered for sale unless a separate placard, identifying that such snowmobile is not so equipped, is conspicuously and permanently affixed thereto.

Organized competitions.

(c) This section does not apply to organized races or similar competitive events held on (1) private lands, with the permission of the owner, lessee, or custodian of the lands, or (2) public lands, with the consent of the public agency having the authority to grant such consent; provided that total sound produced by such event shall not exceed the specifications required by the rules and regulations of the commission after the effective date of the rules and regulations, and provided, that in any event, from and after June 30, 1971, total sound produced by such event shall not exceed (50) decibels on scale "A" (dBA) at any point fifteen (15) feet or more outside the boundaries of the area designated for such event.

June 30, 1971— sound limitations.

Railroad use.

(4) Upon a railroad right of way or railroad track, provided, however, it shall not be unlawful for officers or employees of any railroad operating over said tracks from operating snowmobiles thereon.

Accident reports required.

Section 10. **Accidents involving snowmobiles.** The owner or operator of a snowmobile which is involved in any accident, collision, or upset upon a public street or highway where personal injury occurs to any person, or where property damage exceeds one hundred dollars ($100), shall report the accident or occurrence to a state or local law enforcement agency responsible for collecting reports of accidents involving motor vehicles.

Enforcement.

Section 11. **Enforcement.** The following persons may enforce the provisions of this act:

The enforcement officers employed by the state department of fish and game, with respect to violations relating to game animals or birds, discharging firearms, or mufflers.

The sheriffs of the respective counties, and the police officers or cities and towns, within their respective juris-

HeinOnline -- 1971 vol. II 1677 1971

dictions, and the state highway parol, with respect to any violation of this act upon the public streets or highways.

Penalties for violations.

Section 12. **Penalties.** Violations of any section of this act shall be misdemeanors, and punishable by fine or imprisonment or both, as follows:

(1) For any violations occurring upon the public highways, as provided by law for such violations applying to persons owning or operating motor vehicles.

(2) As provided by law for driving, rallying or harassing game animals, game birds or fur-bearing animals of the state.

(3) For any other violation, as provided by law for misdemeanors.

Repealing clause.

Section 13. Sections 53-1001 through 53-1011, R.C.M., 1947, are hereby repealed.

Approved March 18, 1971.

CHAPTER NO. 435.

An Act Providing for the Display of Tax-Paid Decals on Every Snowmobile Operated in the State of Montana; for the Yearly Issuance of Such Decals; for a Change in the Assessment Date of Snowmobiles; Providing Penalties for Violation of this Act; and Amending Section 84-406, R.C.M., 1947, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. As used in this act, the following terms shall have the meanings indicated herein, unless the context otherwise clearly requires that another meaning be intended:

"Person."

a. "Person" includes an individual, partnership, association, corporation, and any other body or group of persons, whether incorporated or not, and regardless of the degree of formal organization.

"Snowmobile."

b. "Snowmobile" includes any self-propelled vehicle designed primarily for travel on snow or ice or natural terrain which may be steered by wheels, skis, or runners,

HeinOnline -- 1971 vol. II 1678 1971

and which is not otherwise registered or licensed under the laws of the state of Montana.

"Owner." c. "Owner" shall include every person as defined herein, other than a lien holder or other person having a security interest only, holding record title to a snowmobile and entitled to the use or possession thereof.

Display of decal required—payment of taxes. Section 2. No snowmobile shall be operated by any person in the state of Montana unless there is displayed in a conspicuous place thereon a decal as visual proof that Montana personal property taxes have been paid thereon for the current year. Application for the issuance of such tax-paid decal shall be made to the state board of equalization upon forms to be furnished for this purpose, which may be obtained from the board or at the county assessor's office in the county wherein the owner resides, and is to provide for substantially the following information: name of owner, address, registration number, name of manufacturer, model number, make, horsepower, year of manufacture, statement evidencing assessment, payment of property tax, and such other information as the board may require. Said application shall be signed by the owner of the snowmobile and transmitted to the board accompanied by a fee of one dollar ($1). Upon receipt of the application in approved form the board shall issue to the applicant a decal in the style and design prescribed by the board and of a different color than the preceding year, numbered numerically.

Application.

Fee $1.

Board issues decal.

Annual decal. Section 3. Application must be made to the board for the issuance of tax-paid decals annually. Snowmobiles may be operated between January 1 and January 20 in each year without displaying the current year's decal on the condition that application therefor has been made.

Penalty—failure to display. Section 4. The failure to display a current tax-paid decal during the time provided in this act shall constitute a misdemeanor, punishable by a fine of not less than ten dollars ($10) nor more than fifty dollars ($50).

Enforcement. Section 5. The fish and game commission, enforcement personnel, the sheriffs and their deputies of the various counties of the state, the Montana highway patrol, and the police of each municipality shall enforce the provisions of this act.

Amending clause. Section 6. Section 84-406, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1971 vol. II 1679 1971

Duties of assessor—assessment of taxable property.

"84-406. **Time of assessment—motor vehicles—mobile homes—livestock**—*snowmobiles.* (1) The assessor must, between the first Monday of March and the second Monday of July in each year, ascertain the names of all taxable inhabitants, and assess all property in his county subject to taxation, except such as is required to be assessed by the state board of equalization, and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was at 12 *midnight* of the first Monday of March next preceding. He must also ascertain and assess all mobile homes arriving in his county after 12 *midnight* of the first Monday of March next preceding. The procedure provided by this section shall not apply to:

Mobile homes.

Motor vehicles.

(a) Motor vehicles which are required by subdivision (2) hereof to be assessed as of the first day of January; but no mistake in the name of the owner or supposed owner of real property renders the assessment thereof invalid.

Livestock.

(b) Livestock being fed in feeding pens or enclosures which may by subdivision (3) of this section be assessed on an average inventory basis. Credits must be assessed as provided in section 84-101, subdivision 6.

"Special mobile equipment."

(c) Property defined in section 53-642 as "special mobile equipment" shall be subject to assessment of personal property taxes either on the date that application is made for a special mobile equipment plate, if that date falls between the first day of January and the first Monday of March, or on the first Monday of March.

Mobile homes in stock.

(d) Mobile homes held by a distributor or dealer of mobile homes as a part of his stock in trade.

Snowmobiles.

(e) Snowmobiles which are required by subdivision 4 hereof to be assessed as of the first day of January.

Motor vehicles.

(2) The assessor must ascertain and assess all motor vehicles, except mobile homes, in his county subject to taxation as of January 1 in each year, and the same shall be assessed to the persons by whom owned or claimed, or in whose possession or control such vehicle was at 12 *midnight* of the first day of January in each year. Provided that such tax shall not be assessed against motor vehicles which constitute inventory of motor vehicle dealers as of January 1, but said vehicles, and all other motor vehicles brought into the state subsequent to January 1, as motor vehicle

Dealer's inventory.

HeinOnline -- 1971 vol. II 1680 1971

dealer's inventory, shall be assessed to their respective purchasers as of the dates said vehicles are registered by said purchasers, and purchasers means and includes dealers who apply for registration or re-registration of motor vehicles, except as otherwise provided by section 32-3315. Goods, wares and merchandise of motor vehicle dealers, other than new motor vehicles and new mobile homes, shall continue to be assessed at full and true value as of the first Monday of March.

Except that this paragraph shall not apply to an applicant for registration or re-registration of a mobile home, nothing herein contained shall relieve the applicant for registration or re-registration of any other motor vehicle so assessed or subject to assessment of the duty of paying taxes thereon as a condition precedent to registration or re-registration in the event said taxes have not been paid by any prior applicant or owner in all cases where required to be paid.

Feedlot livestock.

(3) The assessed value of livestock being fed in feeding pens or enclosures on the first Monday in March may be computed by adding the value of livestock more than six (6) months of age being fed on the last day of each month since the last assessment date and dividing the sum by twelve (12).

Snowmobiles.

(4) The assessor must ascertain and assess all snowmobiles in his county subject to taxation as of January 1 in each year, and the same shall be assessed to the persons by whom owned or claimed, or in whose possession or control such snowmobile was at 12 midnight of the first day of January in each year; provided, however, that snowmobiles which constitute inventory of snowmobile dealers shall be assessed to the dealers as of 12 midnight of the first Monday of March in each year."

Effective—tax year 1972 and thereafter.

Section 7. This act is effective for the tax year 1972 and thereafter.

Approved March 18, 1971.

CHAPTER NO. 436.

An Act Relating to the Inspection of Passenger Tramways; Providing for Creation of a Passenger Tramway

HeinOnline -- 1971 vol. II 1681 1971

Safety Board, Term of Office, and Compensation of Board Members, Powers and Duties of the Board, Passenger Tramway Registration, Registration Fees, and Judicial Review.

Be it enacted by the Legislative Assembly of the State of Montana:

Policy to protect public in operation of tramways.

Section 1. In order to safeguard the life, health, property and welfare of the citizens of Montana while using passenger tramways, as defined in section 2 of this act, it shall be the policy of the state to protect its citizens and visitors from unnecessary mechanical hazards in the design construction and operation of passenger tramways, but not from the hazards inherent in the sports of mountaineering, skiing and hiking, or from the hazards of the area served by the skier or other sportsman; and that periodic inspections be required of passenger tramways with a view to assuring that each one of them meets the rules and regulations as set forth by the Montana state aerial tramway board. The state, through the passenger tramway safety board, shall register all passenger tramways in the state, establish reasonable standards of design, construction and operational practices and cause to be made such inspections as may be necessary in carrying this policy into effect.

Registration through passenger tramway safety board.

Definitions.

Section 2. As used in this act:

"Board."

(1) The word "board" means the passenger tramway safety board created by section 3.

"Industry."

(2) The word "industry" means the passenger tramway business activities of all those persons in the state who own, manage, or direct the operation of passenger tramways.

"Operator."

(3) The word "operator" means a person, including any political subdivision or instrumentality thereof, who owns, manages or directs the operation of a passenger tramway.

"Area."

(4) The word "area" means the area, terrain or ski slopes served by a passenger tramway.

"Passenger tramway."

(5) The words "passenger tramway" mean a device used to transport passengers by means of any of the following:

Two-car.

(a) Two-car aerial passenger tramway, a device used to transport passengers in two open or enclosed cars at-

HeinOnline -- 1971 vol. II 1682 1971

tached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar devices;

(b) Multi-car aerial passenger tramway, a device used to transport passengers in several open or enclosed cars or carrying device attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar devices; Multi-car.

(c) Skimobile, a device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable, or similar devices; Skimobile.

(d) Chair lift, a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain or link belt supported by trestles or towers with one of more spans, or similar devices; Chair lift.

(e) J bar, T bar or platter pull, so-called, and similar types of devices or means of transportation which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans; J bar, T bar.

(f) Rope tow, a type of transportation which pulls the skiers, riding on skis as the skier grasps the rope or wire rope manually, or similar devices. Rope tow.

Section 3. There is hereby created a passenger tramway safety board. The board shall consist of six (6) appointive members, and one (1) ex officio member who shall be the state fish and game director. The appointive members shall be appointed by the governor, from persons representing the following interests: Two (2) members to represent the industry; two (2) members to represent the public at large; one (1) member who is an engineer licensed as such in Montana, and one (1) member who shall represent the United States forest service. The United States forest service representative shall be an engineer qualified in ski lift engineering and recommended by the Regional Forester in Region 1. The governor, in making such appointments, shall request and consider recommendations made to him by the membership of the particular interest from which the appointments are to be made. Passenger tramway safety board created. Six members appointed by governor. Engineer.

HeinOnline -- 1971 vol. II 1683 1971

Terms of office.

Section 4. Of the first appointments, two (2) members shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, and two (2) for a term of three (3) years and until their successors are appointed and qualified. All terms shall commence on July 1, 1971.

Vacancies.

Vacancies in the board shall be filled through appointment by the governor for the unexpired term. The appointive members of the board shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in their official duties. The members of the board appointed from the United States forest service shall serve for such period as such federal agency shall determine, and shall serve without compensation or reimbursement of expenses. Reimbursement shall be made from fees collected by the board for services rendered by it. The state fish and game director, as ex officio member of the board, shall serve without additional compensation, as a public official, shall supply the board with such office accommodation, space, equipment and secretarial assistance as he may in his discretion consider adequate for the board. Reasonable compensation as may be agreed upon from time to time by the state fish and game director and board shall be paid the fish and game commission for use of its office facilities upon the state fish and game director's demand.

Expenses.

Duties of state fish and game director—ex officio member.

Compensation.

Registration required for tramway operation.

Section 5. No passenger tramway shall be operated in this state unless it has been and continues to be registered with the board; provided, however, that the initial application for the registration of a passenger tramway shall permit the operator to operate such passenger tramway until final action on the application shall have been taken by the board; and if an operator files an application for the registration of a passenger tramway with the board which at that time is registered, then the operator may continue the operation of such passenger tramway under the existing registration until the boards takes final action on the pending application and shall have (a) issued a certificate to the operator, or (b) given written notice to the operator that the passenger tramway has not qualified for certification.

On or before October 1, 1971—application.

Section 6. On or before October 1, 1971, and each year following on or before October 1, every operator of a passenger tramway shall apply to the board, on forms prepared by it, for registration of the passenger tram-

HeinOnline -- 1971 vol. II 1684 1971

ways owned, operated, or managed by him. The application shall contain such information as the board may reasonably require in order for it to determine whether the passenger tramways sought to be registered comply with the intent of this act as specified in section 1 and the rules and regulations promulgated by the board pursuant to section 10.

Board issues certificates.

Section 7. (1) The board shall issue to the applying operator registration certificates for each passenger tramway owned, managed, or operated by such operator when it is satisfied:

Findings.

(a) That the facts stated in the application are sufficient to enable the board to fulfill its duties under this article; and

(b) That each such passenger tramway sought to be registered complies with the rules and regulations of the board promulgated pursuant to section 10.

Inspections.

(2) In order to satisfy itself that the conditions described in paragraphs (a) and (b) of subsection (1) of this section have been fulfilled, the board may cause to be made such inspections described in section 11 as it may reasonably deem necessary.

Supplemental application after October 1.

(3) When an operator installs a passenger tramway subsequent to October 1 of any year, such operator shall file a supplemental application for registration of such passenger tramway. Upon the receipt of such supplemental application, the board shall proceed immediately to initiate proceedings leading to the registration or rejection of registration of such passenger tramway pursuant to the provisions of this chapter.

Expiration—September 30.

(4) Each registration shall expire on September 30 of the year next following the year of issuance.

Display.

(5) Each operator shall cause the registration certificate for each passenger tramway registered to be displayed conspicuously at the place where passengers load.

Annual fees.

Section 8. The application for registration, or supplemental application, shall be accompanied by such annual fees as the board may fix from year to year, not to exceed the following annual fees: passenger tramways described in section 2 (5) (e) and (f), twenty-five dollars ($25) each; (c) and (d), fifty dollars ($50) each; (a) and (b), one hundred dollars ($100) each.

HeinOnline -- 1971 vol. II 1685 1971

Deposit.

Section 9. All fees collected by the board shall be deposited in an earmarked revenue fund—passenger tramway safety account.

Board powers and duties.

Section 10. In addition to all other powers and duties conferred and imposed upon the board by this article, the board shall have and exercise the following powers and duties:

Rules and regulations.

(a) To adopt reasonable rules and regulations relating to public safety in the design, construction and operation of passenger tramways, but which shall not relate or pertain to an area served by a passenger tramway. In adopting such rules and regulations the board shall use as a guideline the standards contained in "The American National Standards Institute — Safety Requirements for Aerial Passenger Tramways". ANSI B 77.1—1970, as amended from time to time, or equivalent, and as amended or supplemented from time to time by the board, and shall not be discriminatory in their application to operators of passenger tramways, and shall hold hearings and take in all evidence relating to the adoption of these rules and regulations; and the board shall supply to each operator a copy of its rules and regulations and each amendment thereto or revision thereof.

Hearings.

Copies.

Subpoena power.

(b) To hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board, subpoena witnesses, administer oaths, and compel the testimony of witnesses and the production of books, papers and records relevant to any inquiry;

Registrations.

(c) To approve, deny, revoke, and renew the registrations provided for in this chapter;

Prosecution.

(d) To cause the prosecution and enjoinder of all persons violating the provisions of this chapter and incur the necessary expenses thereof;

Officers and seal.

(e) To elect officers and adopt a seal which may be affixed to all registrations issued by the board;

Personnel.

(f) To employ, within the funds available, and prescribe the duties of a secretary and such other personnel as the board shall deem necessary.

Inspections.

Section 11. The board may cause to be made such inspection of the design, construction, operation, and main-

HeinOnline -- 1971 vol. II 1686 1971

tenance of passenger tramways as the board may reasonably require. The board may employ qualified engineers to make such inspections for reasonable fees plus expenses. If, as the result of an inspection, it is found that a violation of the board's rules and regulations exists, or a condition in passenger tramway construction, operation or maintenance exists endangering the safety of the public, an immediate report shall be made to the operator whose passenger tramway has received such inspection and to the board for appropriate investigation and order.

Employment of engineers.

Report to operator and board.

Section 12. If, after investigation, the board finds that a violation of this chapter or any of its rules and regulations exists, or that there is a condition in passenger tramway construction, operation, or maintenance endangering the safety of the public, it shall forthwith issue its written order setting forth its findings, the corrective action to be taken, and fixing a reasonable time for compliance therewith. Such order shall be served upon the operator involved in such violation personally or by registered mail at the board's election, and return shall be made as provided in the Montana Rules of Civil Procedure.

Board order—finding of violations.

Service.

Section 13. If any operator fails to comply with a legal order, rule or regulation of the board, the board, at its election, may

On failure to comply.

(a) Suspend the registration of the affected passenger tramway until the operator complies therewith; or

Suspension.

(b) Bring injunctive proceedings in the district court of the judicial district in which the affected passenger tramway is located, to compel compliance therewith. In such proceedings the board shall not be required to post bond.

Injunction.

Section 14. Any order of the board adverse to an operator may be appealed by the operator to the district court of the district wherein is located his passenger tramway which is the subject of such order, and said district court shall conduct a proceeding, de novo, and the decision of the district court shall be subject to appeal to the supreme court of Montana, as in civil cases.

Appeal to district court.

Section 15. Passenger tramways shall not be construed to be common carrier or public utilities for the purposes of regulation within the meaning of the laws of the state of Montana.

Regulation.

HeinOnline -- 1971 vol. II 1687 1971

Unlawful acts of passengers.

Section 16. It shall be unlawful for any person riding or using a passenger tramway to do so in such manner as to endanger the life and safety of other persons or cause damage to passenger tramway equipment.

Misdemeanor.

Section 17. Any person who violates section 16 shall be guilty of a misdemeanor.

Approved March 18, 1971.

HeinOnline -- 1971 vol. II 1688 1971

APPROPRIATIONS AND RESOLUTIONS

ENACTED BY THE

Forty-Second Legislative Assembly

STATE OF MONTANA

1971

HeinOnline -- 1971 vol. II 1689 1971

HeinOnline -- 1971 vol. II 1690 1971

APPROPRIATIONS AND RESOLUTIONS

HOUSE BILL NO. 1

An Act Appropriating Money for the Operation of the Forty-Second Legislative Assembly.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Eight hundred fifty thousand dollars ($850,000) is appropriated from the general fund for the operation of the forty-second legislative assembly.

Section 2. This act is effective on passage and approval.

Approved January 11, 1971.

HOUSE BILL NO. 95

An Act Appropriating Sixteen Thousand Six Hundred Fifty Dollars ($16,650) for State of Montana Dues to the Council of State Governments for the 1971-1973 Biennium.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated to the legislative council from the general fund for the payment of state of Montana dues to the council of state governments for the biennium ending June 30, 1973, sixteen thousand six hundred fifty dollars ($16,650).

Approved February 16, 1971.

HOUSE BILL NO. 476

An Act Appropriating Four Million Dollars ($4,000,000) from the General Fund to the State Board of Health for Matching Funds to Local Governments for Construction of Water Pollution Control Facilities Subject to Section 69-4808.1, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated from the general fund the sum of four million dollars ($4,000,000) to the state board of health for the purpose of providing matching funds to local governments

HeinOnline -- 1971 vol. II 1691 1971

for the construction of water pollution control facilities subject to the limitations of section 69-4808.1, R.C.M., 1947.

Section 2. This appropriation shall be allotted and used on any project on which construction was initiated in this state after June 30, 1966.

Section 3. Any moneys appropriated in section 1 which are not encumbered by project boards by April 1, 1972, are hereby appropriated to the State Equalization Aid Account for distribution to the public schools.

Approved March 11, 1971.

HOUSE BILL NO. 598

An Act to Appropriate Five Thousand Dollars ($5,000) from the General Fund for the Restoration of the Governor's Old Mansion at Helena, Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Five thousand dollars ($5,000) is appropriated from the general fund for the completion of the interior renovation of the Governor's Old Mansion located at 6th and Ewing Street, Lewis and Clark County, Helena, Montana. Said funds are to be used to restore and refinish the interior of the Governor's Old Mansion, including electrical wiring, plumbing, heating, as well as to restore and repair the carriage house and miscellaneous ground work, such as restoring driveways, walls, and landscaping.

Section 2. Funds appropriated in section 1 shall be available on the contingency they match funds in an equal amount procured from private or federal sources.

Approved March 15, 1971.

HOUSE BILL NO. 600

An Act Appropriating One Hundred Thousand Dollars ($100,000) for the Operation of the Environmental Quality Council for the Biennium Ending June 30, 1973.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated one hundred thousand dollars ($100,000) from the general fund to the environmental quality council for the biennium ending June 30, 1973.

Approved March 15, 1971.

HeinOnline -- 1971 vol. II 1692 1971

HOUSE BILL NO. 609

An Act Appropriating Fifty-Eight Thousand Seven Hundred Nine Dollars ($58,709) from the Agricultural Experiment Station Earmarked Revenue Fund for the Biennium Ending June 30, 1973, for the Acquisition of Real Property; Appropriating as Much as May Be Necessary from the Agricultural Experiment Station Earmarked Revenue Fund for interest and Other Costs to the Purchaser for the Acquisition of Real Property; Authorizing the Board of Examiners to Enter Into a Contract for Deed to Approximately 93.69 Acres of Land in Gallatin County.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Fifty-eight thousand seven hundred nine dollars ($58,709) is appropriated from the agricultural experiment station earmarked revenue fund for the biennium ending June 30, 1973, for the acquisition of real property as provided in this act.

Section 2. In addition to the amount appropriated by section 1 of this act, as much as may be necessary for the payment of interest and other costs to the purchaser for the acquisition of real property as provided in this act is appropriated from the agricultural experiment station earmarked revenue fund for the biennium ending June 30, 1973.

Section 3. The board of examiners is authorized to enter into a contract for deed to property in Gallatin County comprised of approximately 93.69 acres presently leased by Montana state university from Peter M. and Mabel B. Hansen under a lease agreement entered into March 1, 1968. The total purchase price of this property shall not exceed fifty-eight thousand seven hundred nine dollars ($58,709). The contract may specify that interest shall be paid at the rate of six percent (6%) per annum on the unpaid balance of the purchase price, from and after the date of said purchase agreement, until the balance of the purchase price shall have been paid in full.

Approved March 15, 1971.

HOUSE BILL NO. 615

An Act Appropriating Moneys for Certain State Agencies of Government for the Biennium Ending June 30, 1971, and for the Operation of the Forty-Second Legislative Assembly; and Providing an Effective Date.

HeinOnline -- 1971 vol. II 1693 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following amounts of money are appropriated for the biennium ending June 30, 1971:

DISTRICT JUDGES

From the general fund for operation, fourteen thousand seven hundred dollars ..... $ 14,700

COUNTY ATTORNEYS

From the general fund for personal services, one thousand five hundred dollars ..... $ 1,500

LIVESTOCK COMMISSION

For payment of re-record costs, there is hereby transferred to the appropriation from the earmarked revenue fund, livestock commission account, appropriation number 21021, brand re-recording, operation from the appropriation from the earmarked revenue fund, livestock commission account, appropriation number 21020, brand re-recording, personal services, twelve thousand six hundred dollars ..... $ 12,600

FORTY-SECOND LEGISLATIVE ASSEMBLY

From the general fund for operation, one hundred thirty-five thousand dollars $135,000

SECRETARY OF STATE

From the general fund for operation, sixteen thousand six hundred eighty-two dollars ..... $ 16,682

DEPARTMENT OF AGRICULTURE

From the general fund for operation, four thousand two hundred dollars ..... $ 4,200

Section 2. This act shall become effective upon passage and approval.

Approved March 8, 1971.

HOUSE BILL NO. 617

An Act Appropriating Moneys to the Department of Lands and Investments to Implement the Provisions of House Bill 243 and Senate Bills 250 and 70; Providing an Effective Date.

HeinOnline -- 1971 vol. II 1694 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated from the general fund the sum of twenty thousand dollars ($20,000) to the department of lands and investments to implement the provisions of House Bill 243 and Senate Bills 250 and 70.

Section 2. The act is effective on its passage and approval.

Approved March 11, 1971.

HOUSE JOINT RESOLUTION NO. 1

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting that the Legislative Council Conduct a Study of Public Welfare Programs Administered by the Department of Public Welfare and Report its Findings, Together with Recommendations and any Necessary Implementing Legislation to the Forty-Third Legislative Assembly.

WHEREAS, expenditures for programs administered by the department of public welfare represent a substantial amount of money, and

WHEREAS, in addition to its obligation to administer these programs, the state of Montana has an obligation to insure that the programs are accomplishing their stated goals and are offering maximum benefits to the welfare recipients within the amounts of money expended, and

WHEREAS, a careful study of the programs might lead to improvements that would not only improve the return to the state for the moneys expended, but also provide better services to the persons served by these programs, and

WHEREAS, there should be a careful examination of the salaries paid to employees of the department of public welfare to determine whether these persons are compensated at a fair and equitable rate compared with other state employees.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to conduct a study of the programs administered by the department of public welfare to determine if improvements could be made not only to increase the

HeinOnline -- 1971 vol. II 1695 1971

return to the state for moneys expended, but also provide better services to the persons served by these programs.

BE IT FURTHER RESOLVED, that the legislative council is requested to include in its investigation statements and opinions from persons served by welfare programs and from organizations representing such persons.

BE IT FURTHER RESOLVED, that the legislative council is requested to include in its study, an examination of the salaries paid to employees of the department of public welfare to determine whether these persons are compensated at a fair and equitable rate compared with other state employees.

BE IT FURTHER RESOLVED, that the legislative council report its findings in writing, together with recommendations and any implementing legislation necessary, to the forty-third legislative assembly.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to the state administrator of public welfare and the executive director of the legislative council.

Approved March 3, 1971.

HOUSE JOINT RESOLUTION NO. 2

A Joint Resolution of the Senate and House of Representatives of the Forty-Second Legislative Assembly of the State of Montana Urging the Teaching of Consumer Education in all Public Schools in Montana.

WHEREAS, the members of the Senate and the House of Representatives of the forty-second legislatvie assembly of the state of Montana have noted the need for improved consumer knowledge about products, services, and credit in the marketplace and a need for Montana consumers to have sufficient knowledge to shop intelligently for the family; and

WHEREAS, the increased number of legislative proposals to protect the consumer points up the fact that more emphasis should be directed to knowledge regarding the acquisition of goods, services, and credit at an early age; and

WHEREAS, a number of public schools in Montana have skillfully incorporated into their curriculum at the junior and senior

HeinOnline -- 1971 vol. II 1696 1971

high school levels the teaching of consumer education as a part of their regular course of study for all students.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That we, the members of the Senate and the House of Representatives of the forty-second legislative assembly of the state of Montana urge that Montana schools implement systematic and organized programs of study in consumer economics and education which provide an improved understanding of how the system affects and is affected by the individual and the family, and

BE IT FURTHER RESOLVED, that the superintendent of public instruction recommend to all Montana school systems guidelines for the establishment of a consumer economics and education curriculum and recommend a minimum amount of instructions to be devoted thereto, and

BE IT FURTHER RESOLVED, that the secretary of state transmit a duly authenticated copy of this resolution to the superintendent of public instruction, Montana department of education.

Approved March 1, 1971.

HOUSE JOINT RESOLUTION NO. 4

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators From the State of Montana, the Honorable Richard Shoup and the Honorable John Melcher, Representatives From the State of Montana, and to the Congress of the United States Asking That the Present Tax-Exempt Status of Bonds Issued By the State of Montana or any Political Subdivision Thereof Be Maintained.

WHEREAS, the present tax-exempt status on income from bonds issued by the state of Montana and the political subdivisions thereof, is necessary to make them attractive to investors, and

WHEREAS, if any limitations or restrictions on the tax-exempt status on income from such bonds are enacted by the Congress of the United States, the marketability of such bonds will be greatly jeopardized if not totally destroyed.

HeinOnline -- 1971 vol. II 1697 1971

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Congress of the United States maintain the present tax-exempt status on income from state and municipal bonds, and

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State of Montana to The Honorable Mike Mansfield and The Honorable Lee Metcalf, Senators from the state of Montana, The Honorable Richard Shoup and The Honorable John Melcher, Representatives from the state of Montana, and to the presiding officers of the Senate and the House of Representatives of the United States.

Approved: February 10, 1971.

HOUSE JOINT RESOLUTION NO. 6

A Joint Resolution of the Senate and the House of Representatives of the State of Montana to the Montana Fish and Game Commission, to the Honorable Forrest H. Anderson, Governor of the State of Montana, to The Honorable Mike Mansfield and The Honorable Lee Metcalf, Senators From the State of Montana, to The Honorable Richard Shoup and The Honorable John Melcher, Representatives From the State of Montana, to the United States Corps of Army Engineers and to the United States Forest Service Urging the Immediate Construction and Operation of a Fish Hatchery in Lincoln County, Montana.

WHEREAS, the Forty-first Legislative Assembly of the state of Montana appropriated the sum of seven hundred and fifty thousand dollars ($750,000) for the construction and operation of a fish hatchery in the Libby Dam area, Lincoln County, Montana, and

WHEREAS, this money shall come from the United States Corps of Army Engineers to allow for construction and operation of a fish hatchery in mitigation for fish losses occasioned by the construction of Libby Dam, and

WHEREAS, under the provisions of that appropriation, found in chapter 373 of the Session Laws of the Forty-first Legislative Assembly of the state of Montana, the balance of any monies not expended by June 30, 1971, which are not encumbered by purchase order or obligated by other written contract shall revert to the funds from which they were appropriated;

HeinOnline -- 1971 vol. II 1698 1971

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That a fish hatchery be constructed with all deliberate speed and operated in Lincoln County, Montana, to be paid for by those monies appropriated under chapter 373 of the Session Laws of the Forty-first Legislative Assembly of the state of Montana, and

BE IT FURTHER RESOLVED, that the secretary of state send copies of this resolution to the Montana Fish and Game Commission, The Honorable Forrest H. Anderson, Governor of the state of Montana, The Honorable Mike Mansfield and The Honorable Lee Metcalf, Senators from the state of Montana, The Honorable Richard Shoup and The Honorable John Melcher, Representatives of the state of Montana, the Commanding Officer of the Corps of Army Engineers and the Chief of the United States Forest Service.

Approved March 18, 1971

HOUSE JOINT RESOLUTION NO. 7

A Joint Resolution of the Senate and House of Representatives to Place a Bust of Former Governor Joseph M. Dixon in the Rotunda of the Capitol.

WHEREAS, Joseph M. Dixon, lawyer, state legislator, congressman, senator, governor, and editor, served Montana and the nation for almost four decades, and

WHEREAS, he was frequently in advance of his times as an imaginative, perceptive and strong-willed freethinking public servant, and

WHEREAS, he served President Theodore Roosevelt twice as his campaign manager in presidential campaigns, and

WHEREAS, he was one of the first governors to see the need for an executive reorganization as well as increased, yet fair, mines taxation, and

WHEREAS, it is high time indeed that this notable Montana governor be honored by a publicly sponsored bust to be placed for public reflection in a suitable spot in the capitol.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

HeinOnline -- 1971 vol. II 1699 1971

That the capitol custodian be directed to select a suitable spot for the bust of former Governor Joseph M. Dixon which will be placed therein at no cost to the government, but borne by popular subscription of the people of Montana.

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state of Montana to the capitol custodian, the state historical society and the governor's office.

Approved February 20, 1971.

HOUSE JOINT RESOLUTION NO. 9

A Joint Resolution of the Senate and House of Representatives of the State of Montana to All Colleges and Universities in the State of Montana, to All Montana Veterans' Organizations, to The Honorable Mike Mansfield and The Honorable Lee Metcalf, Senators From the State of Montana, and to The Honorable Richard Shoup and The Honorable John Melcher, Representatives From the State of Montana, Endorsing ROTC Training and Urging Continued Support and Strengthening of the Programs.

WHEREAS, the Reserve Officers Training Corps programs historically have furnished significant numbers of nonprofessional officers for the armed services of the United States, and

WHEREAS, Montanans should be provided opportunities to voluntarily serve their nation in positions of responsibility and leadership, and

WHEREAS, ROTC programs have a long-standing reputation for providing well-educated and properly trained officers, and

WHEREAS, ROTC programs are currently undergoing a period of synthesis and improvement, and

WHEREAS, academic freedom requires unhampered participation in such programs.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Montana's Forty-second Legislative Assembly endorse the concept of ROTC training and urge continued support and strengthening of the programs, and

BE IT FURTHER RESOLVED, that copies of this joint resolution

HeinOnline -- 1971 vol. II 1700 1971

be sent by the secretary of state to all colleges and universities in the state of Montana, to all Montana veterans' organizations, to The Honorable Mike Mansfield and The Honorable Lee Metcalf, Senators from the state of Montana, and to The Honorable Richard Shoup and The Honorable John Melcher, Representatives from the state of Montana.

Approved March 18, 1971.

HOUSE JOINT RESOLUTION NO. 12

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the State Superintendent of Public Instruction to Computerize All Relevant Statistical Data Needed to Compute the Public School Foundation Program Schedules So As to Establish a More Realistic Program of School Financing Under Montana Law.

WHEREAS, the responsibility for financing the public school system in Montana is the joint responsibility of the state, the county and the public school district, and

WHEREAS, the Montana legislature has adopted a public school educational policy which endeavors to equalize the educational opportunity for all children by providing a minimum basis of instruction and to equalize the tax burden of the property owners of the state known as the public school foundation program, and

WHEREAS, at present the legislative assembly must make important decisions relative to the public school foundation program without the availability of necessary reliable information.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the state superintendent of public instruction be requested to program upon a computer all statistical data needed to compute the public school foundation program schedules including cost and value projections based upon the average number of students belonging in each category to establish a more realistic program of school financing under Montana law, and

BE IT FURTHER RESOLVED, that said information be made available by the state superintendent of public instruction to all parties, both public and private, interested in the matter of public school finance.

Approved March 15, 1971

HeinOnline -- 1971 vol. II 1701 1971

HOUSE JOINT RESOLUTION NO. 13

A Joint Resolution of the Senate and the House of Representatives Directing the State Historical Society to Adequately Portray the History of Montana's Logging Industry in the State Historical Museum.

WHEREAS, the rich and colorful history of Montana's logging industry, and the rugged, adventurous men who built it, has not been given a rightful place in the state historical museum, and

WHEREAS, the logging industry has played a major role in the development and growth of Montana and, in fact, has been an integral factor in the building of Montana's railroads and the development of Montana's mines, and

WHEREAS, the logging industry is presently the third largest among Montana's industries, and

WHEREAS, the preservation of the history and myth of Paul Bunyan and Babe the Blue Ox, is a legacy of the logging industry, not only to future Montanans but all Americans.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the State Historical Society is directed to adequately portray by appropriate exhibit, diarama and other visual and audio means at its disposal the history of the logging industry of Montana and is authorized hereby to solicit funds from the logging industry and the loggers to defray expenses to prepare such exhibits.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the director of the State Historical Society.

Approved February 27, 1971

HOUSE JOINT RESOLUTION NO. 14

A Joint Resolution of the Senate and House of Representatives of the State of Montana in Support of Captured American Fighting Men and Those Missing in Action.

HeinOnline -- 1971 vol. II 1702 1971

WHEREAS, Article VI of the United States Constitution specifically states that provisions of treaties ratified by the United States Government become the "supreme law of the land," notwithstanding contrary limitations of the Constitution itself; and

WHEREAS, notwithstanding solemn promises ratified at the international conference at Geneva that all prisoners of war captured would be given the respect of humane treatment; that Article 2 of the convention provides that it "shall apply to all cases of declared war or any other armed conflict which may arise between two or more of the high contracting parties, even if the state of war is not recognized by one of them"; and

WHEREAS, the government of North Vietnam acceded to the convention on June 28, 1957, and the government of South Vietnam acceded to the convention on November 14, 1953, and the government of the United States acceded to the convention on August 2, 1955; no pretense of compliance has been advanced by North Vietnam or the National Liberation Front (Viet Cong) despite the reminder to do so on June 11, 1965, by M. Jacques Freymond, Vice President of the International Committee of the Red Cross; and

WHEREAS, repeated appeals on the part of wives, parents, relatives and dependents of those unfortunate victims of Communist violence have proven ineffective through the United States Department of State.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That a more determined effort be made by our state department to obtain the release of names of prisoners held; and

BE IT FURTHER RESOLVED, that the government of North Vietnam be urged to immediately release all sick and wounded prisoners; and

BE IT FURTHER RESOLVED, that regular impartial inspections of prisoner of war facilities be allowed; and

BE IT FURTHER RESOLVED, that proper treatment be given to all prisoners; and

BE IT FURTHER RESOLVED, that the prisoners be allowed to write and receive mail; and

HeinOnline -- 1971 vol. II 1703 1971

BE IT FURTHER RESOLVED, that the state department make a more determined effort to obtain the release and freedom from captivity of those American fighting men of this "undeclared" war with North Vietnam; and

BE IT FURTHER RESOLVED, that there be enacted by the Congress of the United States a code of protective legislation similar to the Uniform Code of Military Justice, Public Law 506, applicable to American personnel captured in military operations other than a "declared war" to assure that the full force, authority, and power of the United States of America shall henceforth be publicly committed to the attainment of freedom from captivity of all Americans captured in such military actions, past and future; and

BE IT FURTHER RESOLVED, that copies of this joint resolution be sent by the secretary of state of Montana to the President of the United States, to the head of the State Department, to The Honorable Mike Mansfield and The Honorable Lee Metcalf, Senators from the state of Montana, and The Honorable John Melcher and The Honorable Richard Shoup, Congressmen from the state of Montana.

Approved March 4, 1971.

HOUSE JOINT RESOLUTION NO. 22

A Joint Resolution of the Senate and the House of Representatives Calling Attention to the Need For Preservation and Protection of Montana's Indian Rock Paintings and Pictographs and Directing the Board of Land Commissioners, the State Highway Commission, and the Historical Society of Montana to Undertake Whatever Means Necessary to Preserve and Protect This Irreplaceable Part of Montana's History and Art.

WHEREAS, it has been brought to the attention of the legislative assembly that the numerous Indian rock paintings and pictographs, many of which may be as old as three hundred (300) to seven hundred (700) years, have been totally neglected, and

WHEREAS, an increasing amount of vandalism and human handling are destroying and greatly damaging these invaluable, irreplaceable historical treasures, and

HeinOnline -- 1971 vol. II 1704 1971

WHEREAS, if steps are not soon undertaken to preserve and protect them, a great part of Montana's history and art will be lost forever.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the board of land commissioners, the state highway commission, and the historical society of Montana do whatever may be necessary to protect and preserve the priceless and invaluable Indian rock paintings and pictographs located on lands owned by the state of Montana, and that the board of land commissioners and the historical society of Montana make reasonable attempts to negotiate agreements with owners of private lands having Indian rock paintings and pictographs located thereon which will provide for the preservation of such lands as historical sites.

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state of Montana to the members of the board of land commissioners, the state highway commission, and the historical society of Montana.

Approved March 1, 1971.

HOUSE JOINT RESOLUTION NO. 23

A Joint Resolution of the Senate and the House of Representatives Asking That the Legislative Council Conduct a Study of the Feasibility and Desirability of Establishing a Self-Insurance Fund for Public Schools.

WHEREAS, insurance rates on Montana school property have greatly increased in recent years; and

WHEREAS, it would appear that insurance premiums in Montana have been increased largely because of high losses in other areas outside the state of Montana; and

WHEREAS, it might be feasible and desirable for the state of Montana to establish a self-insurance fund for public school property.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

HeinOnline -- 1971 vol. II 1705 1971

That the legislative council is requested to conduct a study of the feasibility and desirability of establishing a self-insurance fund for public school property; and

BE IT FURTHER RESOLVED, that the legislative council is requested to report its findings, together with recommendations and any necessary implementing legislation, to the Forty-third Legislative Assembly; and

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send a copy of this resolution to the legislative council.

Approved March 9, 1971.

HOUSE JOINT RESOLUTION NO. 29

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Conduct a Study of the Feasibility of Adopting a No-Fault Motor Vehicle Insurance Plan and Report its Findings to the Forty-third Legislative Assembly.

WHEREAS, the legislative assembly has the ultimate duty to the people of Montana to maximize physical, mental and economic security from the growing social problem of increasing injuries, deaths and financial hardships due to increasing motor vehicle operations; and

WHEREAS, application and enforcement of prevailing laws, utilization of available motor vehicle insurance and delays and expense in settlements combine to prevent, delay or abort protection, compensation or relief where deserved, by individuals, whether or not they may be at fault in motor vehicle accidents; and

WHEREAS, corrective legislation of this magnitude deserves in-depth and careful consideration prior to adaption and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to conduct a detailed study of the several statutes and constitutional rights bearing on ways—of compensating motor vehicle accident victims, in Montana, and then submit a written report of findings, together with neces-

HeinOnline -- 1971 vol. II 1706 1971

sary implementing legislation for consideration by the forty-third legislative assembly.

BE IT FURTHER RESOLVED, that the secretary of state send a copy of this joint resolution to the legislative council.

Approved February 27, 1971

HOUSE JOINT RESOLUTION NO. 30

A Joint Resolution of the Senate and House of Representatives of the State of Montana Endorsing the Sustained Yield and Multiple Purpose Act and Urging the Elimination of Slash Burning Except to Control Disease or Insects.

WHEREAS, the Congress of the United States has enacted the Sustained Yield and Multiple Purpose Act to assure a continuous supply of timber and the proper management of all resources within the national forest system, and

WHEREAS, slash burning is devasting vast quantities of trees that have already gained many years of growth, and

WHEREAS, slash burning and similar forest use practices are causing erosion, watershed damage and destroying the natural beauty of forestland areas, and

WHEREAS, slash burning is another source of air pollution which should be halted.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the United States Forest Service, Department of Agriculture, is hereby urged to adopt other means of slash disposal, except in disease or insect infested areas, such as slashers, chippers and leaving flat on the ground to decompose.

BE IT FURTHER RESOLVED, that copies of this joint resolution be sent by the secretary of state of Montana to The Honorable Mike Mansfield and The Honorable Lee Metcalf, Senators from the state of Montana, and The Honorable John Melcher and The Honorable Richard Shoup, Congressmen for the state of Montana, and Clifford Hardin, Secretary of Agriculture, and the chief forester of the United States Forest Service.

Approved March 18, 1971

HeinOnline -- 1971 vol. II 1707 1971

HOUSE JOINT RESOLUTION NO. 31

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Conduct a Study of the Make Up, Boundaries and Number of Judges of the Judicial Districts of the State of Montana and Report its Findings, Together With Recommendations and Any Necessary Implementing Legislation to the Forty-third Legislative Assembly.

WHEREAS, the judicial districts of the state of Montana have been long established and since such establishment there have been significant shifts in population and economic readjustments, and

WHEREAS, the cost in the increase of the administration of justice has been substantial and any savings that a change or readjustment of the judicial districts of the state could be substantial and could make the administration of justice more efficient and more responsive to the needs of the people, and

WHEREAS, surveys that have been made in the past by the bench and the bar have been hampered by the fact that self appraisal is difficult and such a study should be made by a disinterested group.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to conduct a study of the judicial districts of the state of Montana to determine if the present boundaries of such judicial districts should be changed and adjusted to more adequately, efficiently and economically meet the needs of the people and administer justice and to study the number of judges that might be needed in each of the judicial districts that may be recommended, and

BE IT FURTHER RESOLVED, that the legislative council is requested to report its findings in writing, together with any recommendations and any implementing legislation necessary, to the Forty-third Legislative Assembly.

Approved March 9, 1971.

HeinOnline -- 1971 vol. II 1708 1971

HOUSE JOINT RESOLUTION NO. 32

A Joint Resolution of the Senate and the House of Representatives Urging the Constitutional Convention to Amend Section 1 and Section 2, Article XVII, of the Montana Constitution, Providing the Board of Land Commissioners Authority to Classify Lands Into Multiple-Use Classifications and to Change These Classifications From Time to Time As the Board May Deem Necessary.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the senate and house of representatives of the state of Montana urge the constitutional convention to amend section 1 and section 2 of Article XVII of the Montana constitution as follows:

Section 1. Section 1, Article XVII of the constitution of the state of Montana is amended to read as follows:

"Section 1. All lands of the state that have been or that may hereafter be granted to the state by congress, and all lands acquired by gift or grant or devise, from any person or corporation, shall be public lands of the state, and shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised; and none of such land, nor any estate or interest therein, shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the state; nor shall any lands which the state holds by grant from the United States (in any case in which the manner of disposal and minimum price are so prescribed) be disposed of, except in the manner and for at least the price prescribed in the grant thereof, without the consent of the United States. Said lands shall be classified by the board of land commissioners *into multiple-use classes such as, but not limited to, grazing, agriculture, forest, watershed and recreation. The guiding rule and policy shall be a classification system establishing the principal value of the land while recognizing the need for and the application of other multiple uses in accord with sound land management principles.*"

Section 2. Section 2, Article XVII of the constitution of the state of Montana is amended to read as follows:

"Section 2. The lands of *any multiple-use classification* may be sold or leased, under such rules and regulations as may be prescribed by law.

HeinOnline -- 1971 vol. II 1709 1971

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of the state of Montana to the members of the constitutional convention.

Approved March 1, 1971

HOUSE JOINT RESOLUTION NO. 33

A Joint Resolution of the Senate and the House of Representatives of the State of Montana to Soap and Detergent Manufacturers, the Environmental Protection Agency, and the Montana Department of Health, Urging Increased Research Toward Finding a Substitute for Phosphates in Detergents.

WHEREAS, accelerated eutrophication of lakes from man's activities is reducing the quality of our waters both nationally and in Montana; and

WHEREAS, Montana's lakes and their associated recreational uses are an important state resource which will be degraded by eutrophication; and

WHEREAS, phosphates from household detergents are an important source of the nutrients that are causing accelerated lake eutrophication; and

WHEREAS, the present substitutes for high-phosphate detergents, regular soap and a few low-phosphate detergents, are considerably lower in cleaning power; and

WHEREAS, a detergent without phosphates that would be as efficient a cleaner as our present ones, plus regulation to prohibit the use of high-phosphate cleaners would give the most desirable solution to this problem.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That detergent manufacturers and the federal environmental protection agency be urged to increase their research efforts to find a suitable substitute for phosphates in detergents and that the Montana department of health be directed to keep abreast of this research and to have ready for the forty-third legislative assembly recommendations for whatever legislation is necessary to control this nutrient source; and

HeinOnline -- 1971 vol. II 1710 1971

BE IT FURTHER RESOLVED, that the secretary of state send copies of this resolution to The Soap and Detergent Association, 475 Park Avenue South at 32 3rd Street, New York, New York, 10016, to the Environmental Protection Agency, Washington, D. C., and to the Montana State Department of Health.

Approved March 15, 1971.

HOUSE JOINT RESOLUTION NO. 34

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States, the Montana Congressional Delegation, and the United States Army Corps of Engineers, Urging Greater Cooperation and Consideration by the Corps of Engineers for the Fish and Wildlife Resources of Montana, and Urging Intensified Efforts to Improve the Aquatic Environment of Fort Peck Reservoir.

WHEREAS, the fish and wildlife populations in the state of Montana have always been, and still are, and always will be of vital concern to the people of this state; and

WHEREAS, the fish and wildlife of Montana are becoming increasingly more valuable economically as well as esthetically; and

WHEREAS, the operation of Corps of Engineers projects directly affects fish and wildlife such as water level manipulations which are needed for northern pike propagation in Fort Peck Reservoir; and

WHEREAS, the need for close coordination and cooperation between the Corps of Engineers and state fish and wildlife management agency is obvious.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Corps of Engineers and the Montana Fish and Game Commission continue an intensified cooperative effort to obtain a suitable aquatic environment in Fort Peck Reservoir for the production of game fish, particularly northern pike, and

HeinOnline -- 1971 vol. II 1711 1971

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this Joint Resolution to the Montana Fish and Game Commission and to the Chief of Engineers of the Corps of Engineers, and to the Honorable Mike Mansfield, and the Honorable Lee Metcalf, and the Honorable Richard Shoup, and the Honorable John Melcher.

Approved March 4, 1971.

HOUSE JOINT RESOLUTION NO. 38

A Joint Resolution of the Senate and House of Representatives Requesting the Legislative Council to Study the Feasibility of Home Rule for Municipalities and to Make Recommendations to the Forty-third Legislative Assembly.

WHEREAS, there is an increasing tendency toward urbanization in the state of Montana; and

WHEREAS, the influx of people into Montana's municipalities has placed a strain upon the ability of the municipalities to provide necessary services to it residents; and

WHEREAS, the ability of the municipalities to cope with increasing problems is hampered in many cases by a lack of power to take timely action and is further hampered by an unwieldy system of government and a maze of statutes proscribing the activities and powers of the municipalities; and

WHEREAS, the concept of home rule would delegate general power to govern to the municipalities, except in areas specifically regulated or restricted by the legislative assembly; and

WHEREAS, the concept of home rule would allow municipal governments to cope with increasing demands against it.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council be requested to study the feasibility

and desirability of home rule for Montana's municipalities and to make recommendations to the Forty-third Legislative Assembly, and

HeinOnline -- 1971 vol. II 1712 1971

BE IT FURTHER RESOLVED, that the secretary of state of Montana be instructed to send a copy of this resolution to the legislative council.

Approved February 20, 1971.

HOUSE JOINT RESOLUTION NO. 39

A Joint Resolution of the House of Representatives and the Senate Instructing the Legislative Council to Investigate and Explore Tenure Policies in the Montana University System for the Purpose of Making Recommendations Regarding College Tenure to the Forty-third Legislative Assembly.

WHEREAS, there is doubt that any tenure policy enhances the quality of higher education or is beneficial to the public and taxpayers, and

WHEREAS, there is no clear definition of what presently constitutes the tenure policy of the Montana university system, and

WHEREAS, resulting confusion has precipitated controversy at various units of the Montana university system, and

WHEREAS, a clearly defined tenure policy would prevent most such controversies in the future.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the house of representatives and the senate of Montana request the legislative council to recommend to the forty-third Montana legislative assembly whether any tenure policy for college professors ought to exist in the state university system and if a tenure policy is advisable, that they recommend a uniform policy for all units of the greater university system.

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state of Montana to the legislative council.

Approved March 15, 1971.

HeinOnline -- 1971 vol. II 1713 1971

HOUSE JOINT RESOLUTION NO. 40

A Joint Resolution of the Senate and House of Representatives Consenting to the Construction, Improvement and Equipment of Physical Education, Athletic and Recreation Facilities at Montana State University.

BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That, under the provisions of sections 75-8503 (1) and 82-3316, R.C.M. 1947, and subject to the availability of funds other than the appropriated funds from regular state revenues for state operations, the legislative assembly consents to a capital construction program at Montana State University, Bozeman, Montana, consisting of the construction, improvement, and equipment of physical education, athletic, and recreation facilities, estimated to cost two million three hundred sixty-five thousand dollars ($2,365,000); and further consents to the financing of this project, without legislative appropriation of moneys, from funds derived from gifts, grants, fees and earnings and from the issuance of bonds by the state board of education, ex officio regents of the Montana university system, secured by the pledge of revenues from these sources in accordance with section 75-8504, R.C.M. 1947, provided that the principal amount of such bonds issued for this project shall not exceed one million nine hundred ninety thousand dollars ($1,990,000).

Approved March 5, 1971.

HOUSE JOINT RESOLUTION NO. 41

A Joint Resolution of the Senate and House of Representatives Urging That All State and Federal Agencies and Private Organizations Concerned With the Management of Montana's Rangelands Cooperate in the Implementation of the Montana Rangeland Resource Program of the Montana State Soil Conservation Committee.

WHEREAS, Montana is primarily a rangeland state; seventy percent (70%) of the area is grasslands; the largest source of income in Montana is livestock production, which is based on the grazing of these lands; and approximately ninety percent (90%) of the grazing for livestock and sixty-five percent (65%) of the forage for big game animals is produced on privately owned lands, and

HeinOnline -- 1971 vol. II 1714 1971

WHEREAS, during the past two (2) decades, range management has been applied to the land in varying degrees and in many different ways. The result has been a pattern of fragmented management with wide variety of success and failure, and

WHEREAS, today's major demands and uses of Montana's rangelands are: livestock, forage, wildlife habitat, high-quality water production, pollution control, erosion control, recreation, natural beauty of the state, and sites for urban and industrial areas, and

WHEREAS, much progress has been made where range research, information from the universities, and technical assistance have been employed; these services being high in quality and forming the nucleus of a very successful movement to improve Montana ranges, and

WHEREAS, the primary benefits that will come directly from range improvement will be a significant reduction of soil losses from wind and water erosion, minimization of water and air pollution, stabilization of streamflow, improvement of the natural beauty of the state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative assembly of the state of Montana recognizes the necessity for rangeland resource planning, and therefore, urges that all state and federal agencies and private organizations concerned with the management of Montana's rangelands cooperate in the implementation of the Montana Rangeland Resource Program of the Montana State Soil Conservation Committee, and

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state of Montana to the United States Forest Service, the Bureau of Land Management, the Soil and Water Conservation Committee, the Cooperative Extension Service, the Farmers Home Administration, the Montana Stockgrowers Association, Montana Cattlemans Association, the Department of Planning and Economic Development, the Soil Conservation Service, the Montana Fish and Game Department, the Department of State Lands and Investments, the Montana Woolgrowers Association, the State Forestry Department, the School of Forestry at the University of Montana, and the Department of Agriculture at Montana State University.

Approved February 27, 1971

HeinOnline -- 1971 vol. II 1715 1971

HOUSE JOINT RESOLUTION NO. 43

A Joint Resolution of the Senate and the House of Representatives Directed to the State Department of Planning and Economic Development Reemphasizing the Need For Rational Solutions to the Pollution Problems of Montana.

WHEREAS, there is justifiable concern about the pollution in Montana which is affecting the fish, birds, plants, animals and even people, and

WHEREAS, the solution of this problem is of concern to every citizen of the state, and

WHEREAS, this problem can be resolved in a responsible way only by industry, the public, government at every level, and the news media, working together to coordinate their efforts through good communication, and

WHEREAS, it is essential to encourage the growth of industry, commerce and recreation to assure the economic future and enjoyment of Montana; to provide adequate job opportunities for the employment of our young people, to keep them in the state, and

WHEREAS, while seeking good environment, there must be a sustaining economy predicated upon a broadened tax base to enjoy it.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the state department of planning and economic development is urged and directed to seek rational solutions to these problems which will serve the best interests of the people of Montana; economically as well as environmentally; and that good judgment be a factor when considering environment, economic and recreational development.

BE IT FURTHER RESOLVED, that strong, active industries be encouraged to develop and operate, in an orderly manner, consistent with all justifiable regulations for good environment.

BE IT FURTHER RESOLVED, that the secretary of state of Montana be instructed to send a copy of this resolution to the director of the department of planning and economic development.

Approved March 9, 1971.

HeinOnline -- 1971 vol. II 1716 1971

HOUSE JOINT RESOLUTION NO. 44

A Joint Resolution of the Senate and the House of Representatives of the State of Montana Directed to The Honorable Richard M. Nixon, President of The United States of America, The Honorable Melvin Laird, Secretary of Defense, The Honorable Mike Mansfield and The Honorable Lee Metcalf, Senators From the State of Montana, The Honorable Richard Shoup and The Honorable John Melcher, Representatives From the State of Montana, and the Director of Selective Service Urging Fair and Equitable Administration of the Selective Service Act and a Review of National Policy, and Priorities Under the Intent of the Selective Service Act.

WHEREAS, it appears that compulsory peacetime military training as administered under the Selective Service Act and the system designed to implement the act encourages needless Unitd States military adventuring abroad; and

WHEREAS, compulsory military training in peacetime, as administered under the Selective Service System, fosters many inequities against the young men of America; and

WHEREAS, it has not been demonstrated that the present administration of the Selective Service Act promotes and encourages good character-building, loyalty and sound morale in the youth of America; and

WHEREAS, this resolution is not intended nor designed to assess or interfere in any way with obtaining military manpower preparedness in times of national emergency.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That a fair and equitable administration of the Selective Service Act be urged and fostered on all levels, and

BE IT FURTHER RESOLVED, that a review of national policies and priorities under the intent and purpose of the Selective Service Act be made on all levels to correct present inequities under the administration of the Selective Service Act and to properly assess the feelings and attitudes of America's youth who are victimized by the Selective Service Act, and

BE IT FURTHER RESOLVED, that the secretary of state send copies of this resolution to The Honorable Richard M. Nixon, President of the United States, The Honorable Melvin Laird, Sec-

HeinOnline -- 1971 vol. II 1717 1971

retary of Defense, The Honorable Mike Mansfield and The Honorable Lee Metcalf, Senators from Montana, The Honorable Richard Shoup and The Honorable John Melcher, Congressmen from Montana, and the Director of the Selective Service.

Approved March 15, 1971.

HOUSE JOINT RESOLUTION NO. 45

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Montana Agricultural Stabilization and Conservation Service State Committee to Effect Immediate Major Adjustments in Montana's Conserving Base Acres to Give Montana's Grain Producers an Equitable Basis With Other Competing Wheat-Growing States Under the Federal Farm Program.

WHEREAS, Montana's economy is dependent to a large extent upon the production and sale of agricultural products, particularly wheat and other small grains; and

WHEREAS, Montana grain growers presently are restricted to planting only forty-seven and four tenths percent (47.4%) of their total available cropland, while the competing states of Kansas, North and South Dakota, Oklahoma, Nebraska, Texas, Idaho, Colorado and Minnesota are allowed to plant an average of seventy-four and five tenths percent (74.5%) of their total cropland under the same federal farm program; and

WHEREAS, this has been a continuing inequity that has seen conserving base (non-planted) acres reduced in these other nine wheat states in the last five years by an average of twenty-five and five tenths percent (25.5%), while Montana's conserving base acreage was reduced only eleven and four tenths percent (11.4%); and

WHEREAS, recent economic studies by the Montana Agricultural Experiment Station in cooperation with the Economic Research Service of the United States Department of Agriculture on the costs and returns of Montana dryland wheat production show an average net farm income of twenty-eight dollars and ninety-five cents ($28.95) for each acre of production; and

WHEREAS, an adjustment of at least one million (1,000,000) more planted acres is possible this crop season and this would add nearly thirty million dollars ($30,000,000) to farm income, with

HeinOnline -- 1971 vol. II 1718 1971

a secondary economic impact of about sixty million dollars ($60,000,000) on Montana's commercial activity; and

WHEREAS, in regard to protection of land resources, preservation of the environment, and prevention of pollution, the present enforced practice causes more than one-half (½) of the croplands to lie fallow, contributing to massive problems of "dust bowl" proportions from wind erosion and despoliation of millions of acres of land from alkalinity from excess moisture and absorption of soil salts; and

WHEREAS, learned scientists and technicians and agricultural academicians from the Soil Conservation Service and the agricultural establishment at Montana State University have advocated a change in Montana farming practices from half or more fallow to continuous cropping and/or one-third (1/3) fallow in many areas; and

WHEREAS, the Governor of the State of Montana, the United States Majority Leader and other members of the Montana congressional delegation, Montana farm organizations and individual growers have called public attention to these problems and inequities, and have impressed the United States Department of Agriculture with the justness of Montana's appeal for remedy to the situation; and

WHEREAS, the Montana Agricultural Stabilization and Conservation Service State Committee has the authority to make such adjustments and the administrative capability through its county committees to accomplish such adjustments expeditiously; and

WHEREAS, Montana growers are not seeking a competitive advantage but only an equal opportunity to utilize their land resources in the highly competitive enterprise of producing and selling grain; and

WHEREAS, the Montana Agricultural Stabilization and Conservation Service State Committee has the responsibility under law to represent farmers and serve as farmers' advocates in regard to federal farm programs;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Agricultural Stabilization and Conservation Service State Committee is urged to act immediately to encourage individual farmers to appeal for reduction in their conserving base acreages and that said committee is to exercise its complete authority and responsibility to assure such adjustments are accomplished

HeinOnline -- 1971 vol. II 1719 1971

to a degree that gives Montana farmers equity in competition with other wheat-growing states and permits Montana farmers the greatest possible flexibility in determining the acreages to plant and the acreages to fallow in their individual operations, and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to Secretary Clifford Hardin of the United States Department of Agriculture, Agricultural Stabilization and Conservation Service Administrator Kenneth Frick, Agricultural Stabilization and Conservation Service Northwest Area Director Dale Helpspur, the Executive Director and each member of the Montana Agricultural Stabilization and Conservation Service State Committee.

Approved February 10, 1971.

HOUSE JOINT RESOLUTION NO. 46

A Joint Resolution of the Senate and House of Representatives Requesting the Constitutional Convention to Study the Desirability of Amending Section Five (5) Article Sixteen (XVI) of the Montana Constitution to Provide for the Office of Clerk of District Court to Be Consolidated With Other Elective County Offices.

WHEREAS, clerks of courts of some smaller counties have insufficient duties to constitute a full-time job; and

WHEREAS, clerks of court are required by section 18, Article VIII of the Montana Constitution; and

WHEREAS, various other county offices may be combined under section 5, Article XVI of the Montana Constitution; and

WHEREAS, as a separate office, clerks of court represent a considerable expense to the smaller counties.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Constitutional Convention be requested to investigate and determine the desirability of amending section 5, Article XVI to enable the office of clerk of court to be consolidated or combined with other elective county offices, and

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent to the President of the Constitutional Convention by the secretary of state.

Approved March 1, 1971.

HeinOnline -- 1971 vol. II 1720 1971

HOUSE JOINT RESOLUTION NO. 50

A Joint Resolution of the Senate and House of Representatives of the State of Montana Directing the Legislative Council to Study the Feasibility of Establishing a Set of Standard, Statewide Plans for Construction of Elementary and Secondary School Buildings in Montana.

WHEREAS, the people of Montana desire to provide the best possible educational facilities for their young people, and

WHEREAS, the educational dollar is being severely taxed by inflation, rising costs and increasing educational needs, and

WHEREAS, Montana taxpayers are being called upon to provide additional educational facilities, and

WHEREAS, is apears that substantial cost savings would result from the establishment of a set of standard, statewide plans for the construction of elementary and secondary school buildings in Montana that would be adaptable to various size requirements and suitable for various size communities.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council be directed to study the feasibility of and potential cost savings in the establishment of a set of standard statewide plans for the construction of elementary and secondary school buildings in Montana that would be adaptable to various size requirements and suitable for various size communities, and

BE IT FURTHER RESOLVED, that the secretary of state of Montana be instructed to send a copy of this resolution to the Legislative Council.

Approved March 15, 1971.

SENATE JOINT RESOLUTION NO. 1

A Joint Resolution of the Senate and House of Representatives of the State of Montana To the Secretary of Health, Education and Welfare and To the Commissioner of Social Security Asking That the Secretary of Health, Education and Welfare Forestall Enforcement of Regulations Promulgated By the Department of

HeinOnline -- 1971 vol. II 1721 1971

Health, Education and Welfare Requiring Automatic Sprinkling Systems in Certain Hospitals and Extended Care Facilities For a Period of Two Years From January 31, 1971, and Further Urge the Secretary of Health, Education and Welfare to Review, Reconsider and Revise Said Regulations to Permit the Use of Alternative Fire Protection Devices.

WHEREAS, the department of health, education and welfare has adopted regulations (Social Security Administration, 20 CFR Part 405) which provide that in order for extended care facilities and hospitals not accredited by the joint commission on accreditation of hospitals or the American osteopathic association to qualify for participation under the medicare program the standards in the national fire protection association life safety code shall be complied with; and

WHEREAS, it appears that the blanket adoption of the life safety code has not been properly evaluated with the application thereof to individual institutions in terms of optimum efficiency, cost and implementation; and

WHEREAS, it further appears that the regulations make mandatory the purchase and installation within affected institutions of automatic sprinkling systems before January 31, 1971, and that twenty-nine (29) Montana hospitals and thirteen (13) extended care facilities have been determined by the department of health, education and welfare, or may be determined, to be in violation of th automatic sprinkling system requirement as of January 31, 1971, and thereby no longer eligible for participation in the medicare program administered by the department of health, education and welfare; and

WHEREAS, there is definitive and authorative opinion that automatic sprinkling systems do not provide maximum automatic fire protection and that there should be allowance for alternative arrangements that will secure as nearly equivalent safety to life from fire as may be practical; and

WHEREAS, there is further definitive and authorative opinion that smoke detection systems provide alternative fire protection satisfactory to the guarantee of life from fire which are practical.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative assembly of the state of Montana respectfully requests the secretary of health, education and welfare to forestall

HeinOnline -- 1971 vol. II 1722 1971

enforcement of said regulations of the department of health, education and welfare for a period of two (2) years, and further requests the secretary of health, education and welfare to review, reconsider and revise said regulations to permit the use of alternative fire protection devices that will provide equivalent safety to life from fire as may be practical.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this joint resolution to the secretary of health, education and welfare, to the commissioner of social security and to each member of the Montana congressional delegation.

Approved February 27, 1971.

SENATE JOINT RESOLUTION NO. 2

A Joint Resolution of the Senate and House of Representatives of the State of Montana Urging Congress and All Involved Officials to Implement the Recommendations of the Governor's Task Force on Indian Problems.

WHEREAS, the Montana governor's task force on Indian problems has adopted the following resolution concerning the allocation of federal funds:

"WHEREAS, a majority of American Indians now live off reservations, and

WHEREAS, due to budgetary limitations, the services of the Bureau of Indian Affairs and Indian Health Division of the Public Health Service of the Department of Health, Education and Welfare have been limited largely to residents of the Indian reservations, and

WHEREAS, such limitations are gravely prejudicial to the development, security and welfare of Indians both on and off reservations,

NOW, THEREFORE, BE IT RESOLVED by the Montana Governor's Indian Task Force, meeting this 4th day of April, 1970, at Billings, Montana, urge the Congress to appropriate sufficient funds for the Bureau of Indian Affairs, and [for] the Indian Health Division of the Public Health Service to [provide for adequate patient] services to Indians residing off the reservations, as well as those living on the reservations, whether they be treaty or non-treaty Indians, to the end that the United States meet its responsibilities to the Indian people regardless of where they may

HeinOnline -- 1971 vol. II 1723 1971

live or work or what technical legal status they may hold", and further, that these funds be supplemental to the funds now being provided for Indian programs, and

WHEREAS, in chapter 319, laws of 1969, the Montana legislative assembly declared it a policy of this state to assist all Indians whether they reside on reservations or not.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That they fully concur in the resolutions of the Governor's Indian Task Force and urge Congress and all concerned or involved officials to initiate or support any legislative or other action necessary to accomplish the recommendations of the Governor's Task Force.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Montana congressional delegation, the special subcommittee on Indian education, national and area offices of the Bureau of Indian Affairs, the Secretary of the Interior, Congresswoman Julia Butler Hansen of Washington, the President and Vice-President of the United States and the National Council on Indian Opportunity.

Approved March 3, 1971.

SENATE JOINT RESOLUTION NO. 3

A Joint Resolution of the Senate and House of Representatives of the State of Montana Urging Congress and All Involved Officials to Implement the Recommendations of the Governor's Task Force on Indian Problems.

WHEREAS, the Montana governor's task force on Indian problems has adopted the following resolution concurring in certain recommendations made by the special subcommittee of the United States Senate:

"WHEREAS, Report No. 91-501 of the Special Subcommittee on Indian Education of the Committee on Labor and Public Welfare of the United States Senate made the following numbered recommendations with regard to the administration and funding of the Johnson-O'Malley Act, to wit:

HeinOnline -- 1971 vol. II 1724 1971

48. That each state applying for a Johnson-O'Malley contract should be required to submit a definite plan for meeting the needs of its Indian students.

49. That better accountability and evaluation procedures should be instituted at state and local levels.

50. That Indians should be involved in the planning, executing and evaluating of Johnson-O'Malley programs. A state or district's Johnson-O'Malley plan should be subject to the approval of the Indian participants.

51. That technical assistants should be hired by the Bureau of Indian Affairs to work with local agencies, State departments of education and Indian participant groups in helping to identify special Indian needs and in developing programs which would meet those needs.

52. That Johnson-O'Malley funding should not be conditioned by the presence of tax-exempt land.

53. That the expanded contracting authority authorized by the Act's 1936 amendment should be utilized for the development of curriculum relevant to Indian culture and the training of teachers of Indian students.

54. That tribes and Indian communities should be added to the list of agencies with which the Bureau of Indian Affairs can negotiate Johnson-O'Malley contracts and that full use be made of this new contracting authority to permit tribes to develop their own education and programs, and

WHEREAS, the Governor's Indian Task Force of the State of Montana meeting in Billings on this 4th day of April, 1970, concurs in said recommendations and wishes to express its full support of the same.

NOW, THEREFORE, be it resolved that recommendations numbered 48 through 54 inclusive, of said report are fully endorsed by the Governor's Indian Task Force, and the Task Force further urges all concerned units and responsible officers of the Federal and State Governments and the Congress of the United States and the Montana Legislature take appropriate action to implement said recommendations."

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That they fully concur in the resolution of the governor's task

HeinOnline -- 1971 vol. II 1725 1971

force on Indian problems and urge Congress and all concerned or involved officials to initiate or support any legislative or other action necessary to accomplish the recommendations of the governor's task force.

BE IT FURTHER RESOLVED, that the secretary of state send a copy of this resolution to the Montana congressional delegation, the special subcommittee on Indian education, national and area offices of the bureau of Indian affairs, the secretary of the interior, congresswoman Julia Butler Hansen of Washington, the president and vice-president of the United States and the national council on Indian opportunity.

Approved March 3, 1971.

SENATE JOINT RESOLUTION NO. 4

A Joint Resolution of the Senate and House of Representatives of the State of Montana, to the President of the United States of America, the Montana Congressional Delegation, the Army Corps of Engineers and the Montana State Planning Board Urging Early Construction of a Reregulating Dam on Kootenai River Mile 208.9.

WHEREAS, construction of a reregulating dam on the Kootenai River was authorized along with the main Libby Dam Project in 1950, with the purpose of smoothing out river flow after all eight generating units are installed at Libby Dam; and

WHEREAS, river mile 208.9 on the Kootenai River is the best location for the reregulating dam because it will affect the least amount of natural river and wildlife and will require the least relocation of services and industries in the Libby area; and

WHEREAS, completion of the main Libby Dam Project in December, 1972, will result in unemployment of a large work force placing a heavy economic burden on Libby and Lincoln County; and

WHEREAS, the economic burden could be alleviated by construction of the reregulating dam immediately subsequent to completion of the main Libby Dam Project.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

HeinOnline -- 1971 vol. II 1726 1971

That the legislative assembly of the state of Montana supports and urges the early construction of a reregulating dam on Kootenai River Mile 208.9 in order to alleviate or prevent economic harm to Libby and Lincoln counties and best preserve the ecology of the area, and

BE IT FURTHER RESOLVED, that the secretary of state be instructed to send copies of this resolution to the President of the United States of America, the Honorable Mike Mansfield and Lee Metcalf, Senators from the state of Montana, and the Honorable Richard Shoup and John Melcher, Congressmen from the state of Montana, the Army Corps of Engineers and members of the Montana state planning board.

Approved March 3, 1971.

SENATE JOINT RESOLUTION NO. 5

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Montana Congressional Delegation Supporting the Establishment of a Scenic Recreation River Along the Missouri from Robinson Bridge to Fort Benton in Montana and Urging the Montana Congressional Delegation to Introduce and Support Appropriate Legislation.

WHEREAS, that reach of the Missouri River from Robinson Bridge to Fort Benton in Montana has great historic value, tremendous recreational potentialities, game and wildlife that are attractive to the hunter and fisherman, and still contains traces of Lewis and Clark; and

WHEREAS, legislation has been introduced into the United States congress to establish that reach of the river as the Missouri Breaks Scenic Recreation River; and

WHEREAS, the proposed legislation would preserve aesthetic and historic values by prohibiting impoundments on the wild and scenic segments of the river; would perpetuate traditional uses of the area through administration under the Taylor Grazing Act and allowance for mining and mineral leasing; would emphasize land requisition by scenic easement and exchange and would not require mandatory purchase of inholdings; and would give the state of Montana responsibility through cooperative agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

HeinOnline -- 1971 vol. II 1727 1971

That the legislative assembly of the state of Montana supports the establishment of the Missouri Breaks Scenic Recreation River to provide for wild river areas, for scenic river areas, and for recreational areas readily accessible by road in order to protect the historic sites, provide for recreation, including hunting and fishing, and preserve the area; and

BE IT FURTHER RESOLVED, that the legislative assembly of the state of Montana endorses legislation in the form of U.S. Senate Bill No. 4580 which was under consideration by the United States senate during the 91st congress, and urges the introduction and support of a like bill by the Montana congressional delegation during the 92nd congress; and

BE IT FURTHER RESOLVED, that the secretary of state be instructed to send copies of this resolution to the Honorable Mike Mansfield and Lee Metcalf, senators from the state of Montana, and the Honorable John Melcher and Richard Shoup, congressmen from the state of Montana.

Approved March 1, 1971.

SENATE JOINT RESOLUTION NO. 6

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Honorable Richard M. Nixon, President of the United States; to the Honorable Elliot L. Richardson, Secretary of Health, Education and Welfare; to the Congress of the United States; to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the State of Montana; to the Honorable Richard Shoup and the Honorable John Melcher, Representatives from the State of Montana Calling Attention to the Plight of Montana's Small, Rural Hospitals, Extended Care Facilities, Skilled Nursing Homes and Intermediate Care Facilities Which Are Facing Loss of Certification Under Medicare and Medicaid Because of the Increasingly Stringent Medicare Requirements.

WHEREAS, the requirements imposed upon hospitals, extended care facilities, skilled nursing homes and intermediate care facilities by Medicare and Medicaid for certification are becoming increasingly strict and costly; and

WHEREAS, faced with these rigid requirements many of Montana's small, rural facilities are in danger of losing their Medicare and Medicaid certification; and

HeinOnline -- 1971 vol. II 1728 1971

WHEREAS, the loss of certification for Medicare and Medicaid funds by these hospitals may possibly result in the closure of these hospitals; and

WHEREAS, the closure of any such facility in the state of Montana will seriously affect the people of Montana and will be extremely detrimental to the health and welfare, especially, of the elderly and the needy in those areas serviced by such facilities;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the President of the United States, the Department of Health, Education and Welfare, and the Congress of the United States seriously study the effect of the requirements imposed on the small, rural hospitals, extended care facilities, skilled nursing homes and intermediate care facilities for them to receive certification under the Medicare and Medicaid provisions, and to seriously consider the rights of the beneficiaries of the Medicare programs to receive their health care and do all things possible to cooperate with those servicing and serviced by small, rural facilities to relieve them of burdensome requirements which threaten the continued existence of such facilities thereby depriving the sick, needy and elderly of treatment in a local environment by their family physician in their own community.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Honorable Richard M. Nixon, the Honorable Elliot L. Richardson, the Honorable Mike Mansfield, the Honorable Lee Metcalf, the Honorable Richard Shoup, and Honorable John Melcher, the Honorable Speaker of the House of Representatives of the United States, and the Honorable President of the Senate of the United States.

Approved March 3, 1971.

SENATE JOINT RESOLUTION NO. 8

A Resolution of the Senate and House of Representatives of the State of Montana Recommending to the Montana Constitutional Convention that it Consider Considering the Legalization of Bingo when it is Operated as Entertainment for Nonprofit or Charitable Purposes.

WHEREAS, section 2, article XIX of the constitution of the state of Montana provides:

HeinOnline -- 1971 vol. II 1729 1971

"The legislative assembly shall have no power to authorize lotteries, or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state," and

WHEREAS, bingo has been held to be a lottery within the provisions of section 2, article XIX of the constitution of the state of Montana, and

WHEREAS, churches, religious organizations and nonprofit organizations have heretofcre operated games of bingo as entertainment for nonprofit and charitable purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the senate and house of representatives of the state of Montana recommends that the Montana constitutional convention consider the legalization of bingo when it is operated as entertainment for nonprofit or charitable purposes, and is operated by a church, religious organization, or nonprofit organization approved by the federal government for tax-exempt status, and provided that any organization sponsoring bingo shall be required to prepare an annual report to the attorney general accounting for the proceeds therefrom.

Approved March 9, 1971.

SENATE JOINT RESOLUTION NO. 9

A Resolution of the Senate and House of Representatives of the State of Montana Requesting the Legislative Council to Study the Montana Educational System, Community College System and Post Secondary Vocational Technical Centers with a View Toward Specialization of the Various Units thereof by Avoiding Unnnecessary Duplication in the Programs and Degrees Offered by Each Unit.

WHEREAS, the Montana university system consists of six units: the university of Montana at Missoula, Montana state university at Bozeman, Montana college of mineral science and technology at Butte, western Montana college at Dillon, eastern Montana college at Billings, and northern Montana college at Havre; and

HeinOnline -- 1971 vol. II 1730 1971

WHEREAS, the community college system consists of three community college districts: Flathead Valley community college, Dawson community college, and Miles City community college; and

WHEREAS, the post-secondary vocational-technical center system consists of five (5) centers located at Billings, Butte, Great Falls, Helena and Missoula; and

WHEREAS, private educational institutions contribute to the total education experience in the state, consideration should be given to their programs and curriculum on a cooperative basis; and

WHEREAS, in recent years there has been a tendency toward proliferation of the number and types of programs and degrees offered by the various units of the Montana educational system; and

WHEREAS, there is need to study the programs and offerings of each of the four (4) systems cited above to establish guidelines to provide future development of education beyond the secondary level.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to conduct a study of the Montana higher educational systems with a view toward specialization of the various units thereof by avoiding unnecessary duplication in the programs and degrees offered by each unit in order to better utilize the educational resources of the state and strengthen the system; and

BE IT FURTHER RESOLVED, that the legislative council present its findings and recommendations to the board of regents and to the forty-third legislative assembly; and

BE IT FURTHER RESOLVED, that the secretary of the senate is directed to send a copy of this resolution to the executive director of the legislative council and to the board of education and the regents.

Approved March 15, 1971.

SENATE JOINT RESOLUTION NO. 12

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Honorable United States Senators and Representatives from the State of Montana to

HeinOnline -- 1971 vol. II 1731 1971

Examine the Feasibility of Updating the Rules and Regulations Governing Mining Operations on Public Lands.

WHEREAS, the state of Montana has considerable public land located within its exterior boundaries; and

WHEREAS, valuable mineral deposits are similarly situated and are reasonably anticipated to be further discovered in the future; and

WHEREAS, the public lands are presently being used for a variety of purposes, to wit: recreation, timber production, livestock grazing, watersheds and wildlife; and

WHEREAS, mining operations in the past have proven in many cases to unnecessarily disturb the natural coverage of the land and to impair the productivity of the land and to cause an imbalance in the ecological system; and

WHEREAS, the duly elected members of the Montana legislature are concerned with securing a balance between the various interests involved in the use of the public land and in preserving a balanced ecological system.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the honorable United States senators and representatives from the state of Montana be requested to examine the feasibility of updating the rules and regulations governing mining operations on public land; and

BE IT FURTHER RESOLVED, that such modifications of the rules and regulations should include the following considerations:

(1) That the appropriate federal agency be required to assume the responsibility for establishing either a permit, license, or contract system whereby such agency could maintain a high degree of control over any proposed exploration activity thereby assuring a high degree of protection for the environment and of reclamation in the event the same is needed; and

(2) That a prospective explorer should be required to submit a plan of reclamation to the appropriate federal agency prior to the commencement of any exploration; and

(3) That the appropriate federal agency establish a bonding procedure whereby all interested exploration activities would be required to be bonded so as to financially guarantee reclamation in the event the same is deemed necessary by such agency; and

HeinOnline -- 1971 vol. II 1732 1971

(4) That proper steps be taken to safeguard from such rules and regulations the activities of the individual prospector who uses only hand tools without power; and

BE IT FURTHER RESOLVED, that the secretary of state be instructed to send copies of this joint resolution to the Honorable Mike Mansfield and Lee Metcalf, senators from the state of Montana, and the Honorable John Melcher and Richard Shoup, congressmen from the state of Montana.

Approved March 3, 1971.

SENATE JOINT RESOLUTION NO. 13

A Joint Resolution of the Senate and House of Representatives of the State of Montana Respectfully Urging the Honorable Forrest H. Anderson, Governor, and the State Department of Planning and Economic Development to Retain the South-Central Montana Development Federation Intact.

WHEREAS, it has been proposed that the counties of Wheatland, Golden Valley and Musselshell be removed from the now-existent south-central Montana development federation consisting of the counties named above together with the counties of Sweet Grass, Stillwater, Carbon, Yellowstone and Big Horn and be joined into a development and planning area with Fergus County, with headquarters in Lewistown; and

WHEREAS, because of geographical barriers, the natural lay of the land, the state and federal highways, and railroads, and convenience, the general trading and economic area for the counties composing the south-central Montana development federation is Billings; and

WHEREAS, the south-central Montana development federation is already in existence, is operating smoothly and effectively, is self-supporting, and is carrying out essentially what the state department of planning and economic development intends to do; and

WHEREAS, the present plans of the state department of planning and economic development to segregate the federation counties are based not upon the economic and social needs of the people supposed to be served by the department but rather upon some other need not readily discernible to the people.

HeinOnline -- 1971 vol. II 1733 1971

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That it is the wish of the Montana state senate and house of representatives that the south-central Montana development federation continue as it is presently constituted—composed of the following counties: Wheatland, Golden Valley, Musselshell, Sweet Grass, Stillwater, Carbon, Yellowstone and Big Horn, and that it not be divided for purposes not related to the economic and social well-being of the people of the area; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the secretary of state of Montana to the Honorable Forrest H. Anderson, governor, and to the director of the state department of planning and economic development.

Approved March 3, 1971.

SENATE JOINT RESOLUTION NO. 15

A Joint Resolution of the Senate and House of Representatives Consenting to the Use of Any of the Facilities, Furniture, Fixtures, Supplies and Other Property of the Montana Legislative Assembly by the Constitutional Convention.

WHEREAS, a constitutional convention to revise, alter, or amend the constitution of the state of Montana has been called by the vote of the electors of the state of Montana at the general election held November 3, 1970; and

WHEREAS, it is desirable to give the permission of the senate and house of representatives for the use by the convention of the facilities, furniture, fixtures, supplies and other property of the Montana legislative assembly as may be desirable for the purposes of the convention.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That we hereby expressly consent to the use of any of the facilities, furniture, fixtures, supplies and other property of the Montana legislative assembly by the constitutional convention and constitutional convention commission; and

BE IT FURTHER RESOLVED, that a copy of this joint resolu-

HeinOnline -- 1971 vol. II 1734 1971

tion be sent by the secretary of state of Montana to the chairman of the Montana constitutional convention commission, the presiding officers of the constitutional conventio, the state controller, the secretary of the senate, the chief clerk of the house of representatives, and the house and senate sergeants-at-arms.

Approved March 15, 1971.

SENATE JOINT RESOLUTION NO. 16

A Joint Resolution of the Senate and House of Representatives of the Legislative Assembly of the State of Montana to the Congress of the United States and to the National Park Service and Other Agencies of the United States Government and to the Various Agencies of the State of Montana Concerned with the Preservation of Historical Landmarks Requesting that Action be Taken Immediately to Preserve Beaverhead Rock in Madison County, Montana, Which is One of the Great Landmarks of the Lewis and Clark Expedition as a National Park or National Monument.

WHEREAS, long before the Lewis and Clark Expedition, Beaverhead Rock, that outstanding historical landmark on the Beaverhead River, in Madison County, Montana, was known to the Indians as the Beaver's Head because of its remarkable resemblance to the head of a swimming beaver; and

WHEREAS, it was upon sighting this landmark from a distance that Sacajawea said to Captain Lewis and Captain Clark: "Now I know we are on the road to the land of my people," thus establishing it as the most important natural landmark on the entire Lewis and Clark Trail of approximately 4,000 miles from St. Louis, Missouri, to Fort Clatsop, Oregon, near the mouth of the Columbia River; and

WHEREAS, this landmark is of unusual significance to the history of the state of Montana and of the Lewis and Clark Trail; and

WHEREAS, this great landmark is presently threatened by demolition in order to secure rock and gravel for riprapping on the Beaverhead and Jefferson Rivers; and

WHEREAS, the preservation of this most significant monument, as a part of the historical heritage of all of the people of the United States, demands that action be taken immediately to preserve this monument.

HeinOnline -- 1971 vol. II 1735 1971

NOW, THEREFORE BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the congress of the United States, the national park service, and other agencies of the United States and of the state of Montana concerned with the preservation of the historical heritage of all of the people of the United States and the state of Montana take all necessary actions immediately to preserve as a national park, a national monument, or other reserved historical site Beaverhead Rock in Madison County, Montana. and the lands immediately adjacent thereto.

BE IT FURTHER RESOLVED, that a copy of this senate joint resolution be forwarded to members of the Montana delegation in the United States congress, to the director of the national park service, to the governor of the state of Montana and all agencies of the state of Montana which are concerned with the preservation of historical landmarks and the historical heritage of all of the people of the United States.

Approved March 3, 1971.

SENATE JOINT RESOLUTION NO. 19

A Joint Resolution of the Senate and House of Representatives of the State of Montana Respectfully Requesting the Interstate Commerce Commission to Approve Equitable Freight Rates Throughout the Various States of the United States of America.

WHEREAS, railway freight rates as approved by the interstate commerce commission differ from state to state and are not based on any uniform nationwide rate; and

WHEREAS, the railway freight rates established in Montana are unduly high in relation to the rates imposed in other states; and

WHEREAS, the high rates put Montana businessmen, farmers, ranchers and others desiring to ship by rail at a competitive disadvantage to those in other states who enjoy a lesser rate; and

WHEREAS, the establishment of equitable freight rates would eliminate the unfair competitive edge currently enjoyed by out-of-state shippers.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

HeinOnline -- 1971 vol. II 1736 1971

That the interstate commerce commission is hereby respectfully requested to adopt a ton-mile rate or similar fair rate to be applied equitably throughout the states of the United States of America; and

BE IT FURTHER RESOLVED, that, the secretary of state be instructed to send copies of this resolution to the interstate commerce commission, to the Honorable Mike Mansfield and Lee Metcalf, senators from the state of Montana, and the Honorable John Melcher and Richard Shoup, congressmen from the state of Montana.

Approved March 3, 1971.

SENATE JOINT RESOLUTION NO. 22

A Joint Resolution of the Senate and House of Representatives Reserving the Third and Fourth Floors of the Capitol for Legislative Use Only After Construction of the New Supreme Court and Law Library Building.

WHEREAS, the legislative assemblies have historically had to function in totally inadequate space for meeting rooms, office space, committee and hearing rooms; and

WHEREAS, chapter 375, laws of 1969 authorized the construction of a supreme court and law library building and House Bill No. 40 of this legislative session appropriates an additional sum for the construction of such a building; and

WHEREAS, it is estimated that the building will be ready for occupancy in approximately two (2) years; and

WHEREAS, the space presently allocated to the supreme court and to the law library is located on the same floor as the house of representatives and the senate and other legislative offices; and could, with proper planning and space assignment, greatly add to the convenience, efficiency and comfort of the legislative assembly.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That upon completion and occupancy of the new supreme court and law library building the facilities of the entire third and fourth floors of the capitol be reserved for the use of the legislative assembly during its sessions; and

HeinOnline -- 1971 vol. II 1737 1971

That under the authority granted to the state controller in section 82-3308, R.C.M., 1947, he shall assign all such space to the legislative assembly beginning one week before the legislature meets; and

BE IT FURTHER RESOLVED, that the committee on committees of the senate and the speaker of the house of representatives each appoint four (4) members, two (2) from each political party, to study the space and facilities on the third and fourth floors of the capitol and develop a comprehensive plan for space assignments during the legislative sessions; and

That space be assigned in accordance with such plan. That no space on the third and fourth floors of the capitol be assigned permanently to any state agency; except that the committee may provide for the permanent space assignment to the legislative council or other legislative agencies if it is deemed feasible.

Approved March 18, 1971.

SENATE JOINT RESOLUTION NO. 23

A Joint Resolution of the Senate and House of Representatives of Montana to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the State of Montana; to the Honorable Richard Shoup and the Honorable John Melcher, Representatives from the State of Montana, Urging that parts of the Lincoln Back Country and Scapegoat Mountain Area Be Enjoined with the National Wilderness Preservation System.

WHEREAS, parts of the Lincoln back country and Scapegoat Mountain area lie within the national forest system and are in a natural wilderness condition at the present time; and

WHEREAS, the area is presently being heavily utilized as a natural recreation area for horseback riding, hiking, fishing, hunting, camping, photography, and observation of wildlife; and

WHEREAS, there is a growing population of Americans seeking high quality outdoor recreational opportunities; and

WHEREAS, the Lincoln back country and Scapegoat Mountain area contain some of the most spectacular scenic and recreational opportunities to be found in the United States; and

WHEREAS, these outstanding recreational areas, and the wildlife and scenic opportunities therein are of the highest value in attracting people to Montana for the enjoyment of these areas; and

HeinOnline -- 1971 vol. II 1738 1971

WHEREAS, Montana is one of the few states where this type of outdoor recreation containing a complete wildlife community in its natural environment can still be enjoyed; and

WHEREAS, the grizzly bear, the majestic elk, the native cutthroat trout, the Rocky Mountain goat and various other species, some of them endangered, abound in this area; and

WHEREAS, these areas should be preserved and protected for the enlightenment, education, and enjoyment of future generations.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the forty-second legislative assembly of the state of Montana urges the congress of the United States to take the appropriate action necessary to identify those parts of the Lincoln back country/Scapegoat areas best suited to optimum recreational purposes and include them in the National Wilderness System.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to each member of the Montana congressional delegation.

Approved March 4, 1971.

SENATE JOINT RESOLUTION NO. 24

A Joint Resolution of the Senate and House of Representatives Requesting the Legislative Council to Study and Evaluate the Various State Laboratories, Their Functions, Responsibilities and Degree of Efficiency and to Recommend Such Plans and Programs Necessary to Provide Montana and Her Citizens with the Best Possible Laboratory Facilities, Personnel, Equipment, Administration, and Services.

WHEREAS, regulatory and research laboratories are essential elements of many state and university programs; and

WHEREAS, the citizens of Montana need and are requesting additional laboratory services today; and

WHEREAS, there are and will continue to be unnecessary duplication of laboratory functions, and equipment; and

WHEREAS, expensive, highly sophisticated laboratory equipment is necessary today; and

HeinOnline -- 1971 vol. II 1739 1971

WHEREAS, new developments and improved techniques may cause equipment to become obsolete in a short time and have to be replaced; and

WHEREAS, the employment of qualified personnel is necessary to provide the highest standard of technical services; and

WHEREAS, laboratory facilities should be convenient to regulatory agencies; and

WHEREAS, continued technical education programs may be necessary for laboratory personnel to become more proficient and knowledgeable; and

WHEREAS, administration of laboratory functions, responsibilities, and services need to be improved and possibly consolidated; and

WHEREAS, cooperation and assistance between laboratories is mandatory; and

WHEREAS, maximum efficiency and the highest attainable technical and consultant services must be a primary goal; and

WHEREAS, laboratory research programs are essential education and scientific tools today.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested hereby to study and evaluate the various state agency and university laboratories, their functions, responsibilities, services, degree of efficiency, present and future laboratory demands; the council should utilize the expertise of state and university fiscal, administrative, regulatory and research personnel and other technical consultants involved in laboratory programs.

BE IT FURTHER RESOLVED, that the legislative council prepare and have ready for submission to the forty-third legislative assembly such plans and programs as it may formulate under this directive, together with suitable recommendations and a draft of proposed legislation, if necessary, to carry out such objectives and goals.

Approved March 18, 1971.

HeinOnline -- 1971 vol. II 1740 1971

SENATE JOINT RESOLUTION NO. 26

A Joint Resolution of the Senate and House of Representatives to the State Fish and Game Commission and the Historical Society of Montana Directing the Placing of Historical Markers and Information Signs along the Missouri River from Fort Benton to the Fred Robinson Bridge to Point Out and Inform Floaters and Boaters about Points of Interest.

WHEREAS, there has been an increasing amount of river travel by floaters and boaters on the Missouri River to the Fred Robinson bridge, many of whom are tourists and out-of-staters not familiar with the history and the natural endowments of the area; and

WHEREAS, along this stretch of the Missouri River, in addition to the magnificent and beautiful scenery, are many points of historical interest and abundant wildlife living in their natural habitats.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That signs marking historical sites and points of information and describing the natural conditions along the stretch of the Missouri River from Fort Benton to the Fred Robinson bridge be placed by the fish and game department and the historical society to be read by those using the river; and

BE IT FURTHER RESOLVED, that the fish and game department and the historical society negotiate permission from the private landowners bordering the river to place the signs; and

BE IT FURTHER RESOLVED, that the secretary of state send copies of this resolution to the state fish and game commission and to the director of the historical society of Montana.

Approved March 4, 1971.

SENATE JOINT RESOLUTION NO. 27

A Joint Resolution of the Senate and House of Representatives of the Forty-Second Legislative Assembly of the State of Montana Approving in Principle the Proposed Federal Family Assistance Act.

HeinOnline -- 1971 vol. II 1741 1971

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That this legislative assembly approves in principle the proposed Family Assistance Act providing a basic national income supplement for all needy families with children, the aged and unemployable, and the inclusion of working incentives, child care services for working mothers, job training, and like provisions aimed at creating self-sufficient independent families.

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of the state of Montana to the president of the United States; to the vice-president of the United States in his capacity as president of the United States senate; to the speaker of the house of representatives in congress; and to each of the members of the congressional delegation of Montana.

Approved March 18, 1971.

SENATE JOINT RESOLUTION NO. 29

A Joint Resolution of the Senate and House of Representatives to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from Montana, and the Honorable John Melcher and the Honorable Richard Shoup, Representatives from Montana, Urging the Montana Congressional Delegation to Use Their Influence and Connections with the Proper Federal Agencies to See that Proper and Adequate Access Roads Are Built and Upgraded by the Federal Government in the Triangle Area of Montana Where the Safeguard ABM Missile Sites Are Located; Providing for Mailing Copies to Certain Officials.

WHEREAS, the construction and maintenance of numerous roads designated as FAS roads within the Triangle Area north of Great Falls, bounded by highways US 91 (Interstate 15) to Shelby, US 2 to Havre and US 87 to Great Falls, not only during construction of the "Safeguard" facilities but for into the future during operation and maintenance of the ABM system, has been and continues to be the responsibility of the county commissioners of Teton, Pondera, Toole, Liberty, Hill, Chouteau and Cascade counties; and

WHEREAS, federal aid funds for secondary (FAS) roads have been limited and what funds have been provided have been distributed among the several counties forming the Triangle Area, and yet at least one hundred forty-nine (149) miles in the area in the several counties remain unpaved; and

HeinOnline -- 1971 vol. II 1742 1971

WHEREAS, because the county commissioners were deeply concerned, numerous members from the boards of Teton, Pondera, Toole, Liberty, Chouteau and Cascade counties, representing District No. 6, Montana association of county commissioners, met in the Cascade County courthouse on December 16, 1970, and unanimously adopted the following motion:

"It was moved, seconded, and unanimously carried: That the commissioners of District 6, individually and collectively adopt and support the system of access roads as outlined in the "Memoranda for Discussion" before this meeting in which are listed particular roads within the Triangle Area bounded by U.S. Highways numbered 91, 2 and 87 giving access to the safeguard facilities now under construction within that area.

That the Army be urged to make available approximately $12,000,000 to upgrade approximately 149 miles of such access roads as set forth in said "Memoranda for Discussion" which is made a part of this motion."

The roads listed in the "Memoranda for Discussion" and the approximate mileage requiring upgrading were detailed as follows:

	County		Unpaved Mileage
(a) From Choteau eastward thru Dutton, thence FAS 379 to SSH 225;	Teton Chouteau	6.5 4.0	10.5
(b) FAS 365 eastward from Brady to SSH 225;	Pondera Chouteau	6.0 4.0	10.0
(c) Northward approximately 6.5 miles from Brady east road to MSR site;	Pondera	6.5	6.5
(d) FAS 218 eastward from Conrad to SSH 225;	Pondera Choteau	6.0 4.0	10.0
(e) From Valier to US 91 and eastward from US 91 to ABM site (now under development)	Pondera	13.0	13.0
(f) From US 2 a few miles east of Shelby, thence on FAS 417 southeastward to Ledger east road;	Toole Pondera Toole Co. line	10.7 6.0	16.7
(g) From junction of Chester south road and Ledger east road FAS 366, thence westward to SSH 225;	Liberty	17.0	17.0

HeinOnline -- 1971 vol. II 1743 1971

(h) Southerly on FAS 223, Chester to Fort Benton road, from junction Ledger east and Chester south roads to Chouteau County line; Hilde Construction was awarded a contract to grade, gravel, pave, and sign 6.7 miles of this road from Marias River to junction with Ledger east road, for $447,402; the portion from the bridge to Chouteau-Liberty County line is graded and gaveled; the bridge was constructed up to standard a few years ago;	Liberty	15.0	15.0
(i) Northwestward from Big Sandy to junction of Chester south and Ledger east roads (a contract for $345,139 was let in August 1969 to Nelson-Smith Construction Co. to grade and pave 6.217 miles west from the presently paved portion of this road);	Liberty Hill Chouteau	10.0 9.0 13.0	32.0
(j) SSH 225 northward from Cascade County line to Ledger east road;	Chouteau Liberty Toole	33.0 7.0 4.0	44.0
Total Mileage presently unpaved			174.7
Less:			
(e) above now being developed by U.S.	Pondera	13.0	
(h) above now under contract	Liberty	6.7	
(i) above now under contract	Chouteau	6.217	25.917
Net unpaved mileage			148.783;

and

WHEREAS, many desirable residential cities and towns are on, or in close proximity to, the primary U.S. highways that form the boundaries of the Triangle Area, while within the area there are no cities or towns. The upgrading of the specified unpaved mileage would facilitate the immediate absorption of construction and, later, the operational and maintenance personnel of "Safeguard" facilities into those attractive communities where there already exist grade and high schools, churches, libraries, parks, playgrounds, water

HeinOnline -- 1971 vol. II 1744 1971

systems, sanitary facilities, etc. In two (2) of the cities, Havre and Great Falls, there are four-year accredited colleges; and

WHEREAS, under normal traffic volume, maintaining and repairing dirt roads in the Triangle Area is almost impossible during some seasons and the cost is enormous; wind erosion and traffic renders gravel surfaces both very expensive and very dangerous from flying rocks; driving in dust is most hazardous on narrow roads, and in mud is practically impossible; and

WHEREAS, what extraordinary maintenance and repair for which these roads are eligible under army finances is not clear to the county commissioners, and such eligibility particularly causes concern when roads that have served normal traffic become practically or totally impassible under "Safeguard" generated traffic, either direct or indirect; and

WHEREAS, the unemployed list grows week by week and the number of applicants for welfare does the same, augmented by an influx from the unemployed elsewhere who come to the area hoping "Safeguard" construction will provide a job, inasmuch as there is no big employer other than the "Safeguard" to furnish employment, which is not enough. Those who have given the matter serious thought know that job opportunity should and can be generated by enlarging and expanding every existing activity at hand, and that nothing could contribute to job opportunity in the area as would the construction of a good access road system and the activity that would thereby be generated in so many communities; and

WHEREAS, to have been made the prime target for Russian 50-megaton war heads, and for those of China when that nation is ready to fire, appears to qualify this area for equitable treatment.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the United States of America immediately undertake to upgrade and adequately construct the defense access roads located in the Triangle Area of Montana where the ABM missile system is being installed; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the secretary of state to the Honorable Mike Mansfield and the Honorable Lee Metcalf, senators from Montana, and to the Honorable John Melcher and the Honorable Richard Shoup, representatives from Montana, the Honorable Melvin Laird, secre-

HeinOnline -- 1971 vol. II 1745 1971

tary of the department of defense and the Honorable Lowell K. Bridwell, administrator of the federal highway administration of the United States office of transportation.

Approved March 3, 1971.

SENATE JOINT RESOLUTION NO. 30

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the State Board of Education to Conduct a Study of Proprietary Schools Offering Vocational or Technical Training to Citizens of Montana.

WHEREAS, interest in employment skills and technical training is increasing in Montana; and

WHEREAS, the goals, procedures and standards of proprietary technical and training schools are often unknown, and the goals, procedures and standards of such schools may not be in keeping with the public interest and the needs of students; and

WHEREAS, students and their families have often incurred financial loss through fraudulent or exaggerated representations made by some proprietary vocational or technical training schools; and

WHEREAS, the state of Montana currently has no rules, regulations or standards in regard to proprietary vocational or technical training schools.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the state board of education be requested to organize a committee including a representative from the office of the superintendent of public instruction, the Montana personnel and guidance association, the Montana vocational association, and Montana proprietary vocational or technical training schools to study proprietary schools offering vocational or technical training to the citizens of Montana, and to make recommendations to the forty-third legislative assembly with a view toward establishing rules, regulations and standards for such schools; and

BE IT FURTHER RESOLVED, that the secretary of state of Montana be instructed to send a copy of this resolution to the state board of education.

Approved March 3, 1971.

HeinOnline -- 1971 vol. II 1746 1971

EXTRAORDINARY SESSION

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March 8, 1971 to April 3, 1971

HeinOnline -- 1971 vol. II 1747 1971

HeinOnline -- 1971 vol. II 1748 1971

CHAPTER NO. 1

An Act to Amend Chapter 296, Laws of Montana, 1971, Relating to Calling a Constitutional Convention: By Changing the Date of the Special Primary Election; By Providing for the Secretary of State to Certify to the Registrars the Name and Description of Each Person Nominated By Providing that the Convention May Remain in Session as Long as Necessary; By Amending Provisions for Schedule of Legislation; By Amending Provisions to Grant Leave for Public Employees Elected as Delegates; Amending Provisions for Appointing Members and Filling Vacancies on Constitution Convention Commission; Restating the Function and Duties of Said Commission; Deleting Provisions Permitting the Commission to Accept and Expend Private Funds; Repealing Subsections (3), (11) of Section 20, Chapter 296, Session Laws of 1971; Amending Provisions for Appropriations; Providing an Automatic Repealer and Providing an Immediate Effective date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Chapter 296, Laws of Montana, 1971, is amended to read as follows:

Constitutional convention called.

"Section 1. A constitutional convention to propose revisions, alterations, or amendments to the constitution of the state of Montana is hereby called.

Number of members—election districts.

Section 2. The number of members of the convention and the districts from which they are elected shall be the same as that provided for the election of members of the house of representatives of the Montana legislative assembly at the general election to be held November 7, 1972.

November 7, 1972 election.

Qualifications of members.

Section 3. The qualifications of members shall be the same as that of members of the senate of the Montana legislative assembly as provided in article V. section 3 of the constitution of the state of Montana: "No person shall be a senator who shall not have attained the age of twenty-four (24) years, and who shall not be a citizen of the United States and who shall not (for at least twelve (12) months next preceding his election) have resided within the county or district in which he shall be elected."

HeinOnline -- 1971 vol. II 1749 1971

Election of delegates.

Special primary September 14, 1971 —special general November 2, 1971

Section 4. *(1)* Delegates to the constitutional convention shall be elected in the same manner as members of the house of representatives, except the special primary election shall be held *September 14, 1971* and the special general election shall be held November 2, 1971.

Certification of nominees.

(2) Thirty (30) days or more before the special general election, the secretary of state shall certify to the registrars the name and description of each person nominated, as specified on the certificate of nomination filed with him.

Oath.

Section 5. Each member, before entering upon his duties, shall take and subscribe the following oath or affirmation prescribed by section 1 of article XIX of the constitution of the state of Montana: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the state of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid, or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this state, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law, so help me God."

Vacancies.

Section 6. Vacancies occurring in the convention shall be filled in the manner provided for filling vacancies in the legislative assembly as provided in sections 43-215 and 43-216, R.C.M., 1947:

Vacancies in legislative assembly

"43-215. **Filling vacancies in legislative assembly—appointment by board of county commissioners—calling of board meeting.** When a vacancy occurs in either house of the legislative assembly, the vacancy shall be filled by appointment by the board of county commissioners, or, in the event of a multicounty district, the boards of county commissioners comprising the district sitting as one appointing board. The chairman of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of

HeinOnline -- 1971 vol. II 1750 1971

the legislative assembly, and he shall act as the presiding officer of the meeting."

"43-216. **Alternative method of selection—failure of one candidate to receive majority vote.** In the event that a decision cannot be made by the appointing board because of failure of any candidate to receive a majority of the votes, the final decision may be made by lot from a number of candidates, not exceeding the number of counties comprising the district, in accordance with rules of selection adopted by the appointing board." Final decision by lot.

Section 7. (1) It shall be the duty of the delegates elected to assemble in the chambers of the house of representatives in the state capitol building in the city of Helena at 10:00 a.m. on November 29, 1971, for an organizational meeting of no longer than three (3) days duration. Duty to assemble November 29, 1971.

(2) This meeting shall be for the purpose of electing permanent convention officers, adopting rules of procedure, and providing for such interim committees and staff members as may be necessary to prepare for the plenary meeting of the convention. Purpose of meeting.

(3) Until the convention has adopted rules of procedure, "Mason's Manual of Legislative Procedure" shall govern the procedure of the convention. A majority of the whole number of delegates to the convention shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day. The convention may compel the attendance of its members. Rules of procedure. Quorum.

(4) The governor shall call the first meeting of the constitutional convention to order and shall preside until a temporary president is elected. The governor shall: Duties of governor.

(a) call the roll of the members-elect, (as shown by the official election returns on file in the office of the secretary of state);

(b) cause the oath called for by this act to be administered to those members-elect who are present;

(c) call for nominations of convention members for the office of temporary president;

(d) cause the roll of members to be called for the purpose of voting for temporary president, and

HeinOnline -- 1971 vol. II 1751 1971

(e) declare to be elected the person receiving a plurality of the votes cast for the office of temporary president.

Temporary president.

Election of president.

Vice-president.

(5) The temporary president shall then assume the duties of the presiding officer, and the convention shall proceed to the election of a president from within its membership in like manner as the temporary president was elected except that a majority of the votes cast is required to elect the president of the convention. The convention shall then proceed to elect one of its members as vice-president of the convention to preside in the absence of the president.

Duty to assemble January 17, 1972.

Duration of session.

(6) It shall be the duty of the delegates elected to assemble in plenary session in the chambers of the house of representatives in the state capitol building in the city of Helena at 10:00 a.m. on January 17, 1972. The convention, *which may recess from time to time, shall then remain in session as long as necessary.*

Privileges.

Section 8. In going to and returning from the convention and during its sessions, the members shall in all cases, except treason, felony or breach of the peace, be privileged from arrest; and they shall not be questioned in any other place for any speech or debate in the convention.

Employment of personnel.

Expenditures.

Section 9. The convention may select and employ such employees as it may deem necessary to the efficient conduct of its business, each of whom shall receive such compensation as may be fixed by the convention. The convention may make such other expenditures as it deems proper to carry out its work, but shall not authorize total expenditures in excess of the amount appropriated by law for its expenses.

Rules of procedure.

Journal.

Committee records.

Publication.

Section 10. (1) The convention shall determine the rules of its procedure, and be the judge of the election, returns and qualifications of its members. The convention shall keep a verbatim journal of its proceedings and a transcript of its debates. Each committee of the convention shall keep a record of its proceedings and reports. The convention may also provide for the publication of any of its other documents and reports.

Filing of records.

(2) The verbatim journal of its proceedings, the transcript of the debates of the convention, and the commit-

HeinOnline -- 1971 vol. II 1752 1971

tee reports and proceedings shall be filed in the office of the secretary of state.

Duties of public officers and employees.

Section 11. (1) It shall be the duty of all public officers and employees to furnish the convention with any and all statements, papers, books, records and public documents that the convention requires on request of the convention or its committees, and appear before the convention or any committee thereof. The convention, and its committees, may compel the attendance and testimony of witnesses and the production of books, records and documents. Oaths may be administered by the president or any other officer of the convention. Subpoenas and subpeonas duces tecum may be issued over the signature of the president or any other officer of the convention, and may be served by any adult person designated by the issuing officer.

Subpoena power.

Oaths.

District court—contempt proceedings.

(2) Any district court judge, upon application of the convention, may compel the attendance of witnesses, the production of books, records or documents, and the giving of testimony before the convention by an attachment for contempt or otherwise in the same manner as production of evidence, not privileged by law, may be compelled before the court.

Use of facilities.

Section 12. (1) The convention may use the facilities of the state, municipal or county government when such use is not disruptive of regular governmental activities.

Public employees may be granted leave.

(2) State, municipal and county officers and employees, at the request of the convention and with the consent of the employing agency, may be granted leave with or without pay from their agency to serve as consultants to the constitutional convention. If leave with pay is granted they shall receive no other compensation, except mileage and per diem, from the convention.

Schedule of proposed legislation.

Section 13. The convention may also prepare a schedule of *proposed* legislation *for submission to the 1973 legislative assembly that will* complement the proposed revisions, alterations or amendments.

Schedule of transitional provisions.

Section 14. The convention shall prepare a schedule of transitional provisions and fix the date or dates upon which revisions, alterations or amendments, if adopted by the voters, take effect.

HeinOnline -- 1971 vol. II 1753 1971

Licensing of lobbyists.

Section 15. (1) Sections 43-801 to 43-808, R.C.M., 1947, providing for the licensing of legislative lobbyists shall apply to lobbying at the constitutional convention.

Lobbyists must file reports.

(2) Licensed lobbyists shall file with the secretary of state a report on February 1, 1972; February 15, 1972; March 1, 1972; March 15, 1972; April 1, 1972; June 15, 1972. The report, under oath, must include all expenditures made by him relative to promoting or opposing constitutional provisions. On the fifth day a report is delinquent, the secretary of state shall suspend the license of any licensed lobbyist who fails to file a report until such report is filed. The suspension shall be entered on the docket, and the president of the convention notified.

Expenditures.

License suspension.

(3) Reports must be filed even though no expenditure may have been made.

Exclusions.

(4) Reports need not include:

(a) reasonable internal expenditures such as office expenses, mailing and routine research, and

(b) reasonable expenditures for his personal food, lodging and travel.

(5) Expenditures of twenty-five dollars ($25) or less may be reported in total amounts rather than in detail.

Lobbyists notice of termination.

(6) A lobbyist who terminates his duties shall give the secretary of state, within thirty (30) days after the date of such termination, written notice and shall include a report of his expenditures covering the period of time since his last report. Such reports shall be final.

Forms.

Public records.

(7) The secretary of state shall provide forms and shall keep such reports on file for three (3) years. All records are to be open to the public.

Violations.

(8) Failure to file reports or the filing of incomplete information is a violation of section 43-808, R.C.M. 1947.

Per diem and expenses.

Section 16. (1) For each day of the organizational, plenary and signing sessions of the convention, members of the convention shall be paid the same per diem, and expenses as provided in section 43-310, R.C.M. 1947, for members of the legislative assembly.

Compensation president and vice-president.

(2) The president and vice-president of the convention shall be paid the same per diem, and expenses as.

HeinOnline -- 1971 vol. II 1754 1971

the president of the senate and speaker of the house of representatives as provided in section 43-311, R.C.M. 1947.

(3) Members and officers shall be entitled to mileage for three (3) trips to and from their residences and Helena by the nearest traveled route at the rate provided for the legislative assembly in section 43-310, R.C.M. 1947. Mileage.

(4) Officers and employees of the state and its political subdivisions who *are not prohibited by the Montana Constitution or laws of Montana from serving as delegates and who* are elected and serve as delegates to the convention shall have leave, without pay, from their employment during the time the convention is in session, and they shall be entitled to the per diem, expenses and mileage for delegates as provided in this section. Public officers—delegates—leave without pay granted.

Section 17. (1) The revision or alteration of, or the amendments to the constitution, adopted by the convention, shall be submitted to the electors of this state for ratification or rejection, at an election appointed by the convention for that purpose, not less than two (2) months nor more than six (6) months after the adjournment of the convention. Submission to electors. Election.

(2) The convention may submit proposals to the electorate for ratification in any of the following forms: Proposal forms.

(a) submitted as a unit in the form of a new constitution;

(b) submitted as a unit with the exception of separate proposals to be voted upon individually, or

(c) submitted in the form of a series of separate amendments.

(3) The proposals adopted by the convention shall be certified by the president and secretary of the convention to the secretary of state.

(4) Each proposed revision, alteration, or amendment, together with appropriate information explaining each revision, alteration, or amendment, shall be published in full and disseminated to the electors upon *adjournment* of the convention but not later than thirty (30) days preceding the election and in such manner as the convention prescribes. Publication of proposals.

HeinOnline -- 1971 vol. II 1755 1971

Publication. (5) The convention shall also publish a report to the people explaining its proposals.

Notice of election. (6) Notice of the election shall be given in the manner and form prescribed by the convention.

Conduct of election. (7) The convention shall prescribe the manner and form of voting at such election.

Canvass of votes. (8) The votes cast at such election shall be tabulated, returned and canvassed in such manner as may be directed by the convention.

Majority vote—proclamation by governor. (9) If a majority of the electors voting at the special election shall vote for the proposals of the convention the governor shall by his proclamation declare the proposals to have been adopted by the people of Montana. The new constitutional provisions shall take effect as provided therein, or as provided in a schedule of transitional provisions attached thereto.

Election laws apply. (10) The election laws of the state of Montana shall apply in all other respects to the election conducted under this section.

Voter eligibility. Section 18. Every person who, at the time of holding of the elections provided for in this act, is a qualified voter under the constitution and laws of this state shall be entitled to vote in such election.

Duty to conduct special elections. Section 19. All state and local officials shall do all those things which are appropriate to the holding of each of the special elections provided for in this act and which are required under the general election laws.

Sixteen member Montana constitutional convention commission created. Section 20. (1) A temporary state agency known as the Montana constitutional convention commission consisting of *sixteen (16)* members is hereby created to prepare for the constitutional convention. *Legislators whose terms of office have not expired shall not be appointed to the commission.* Members of the commission shall be appointed *for a term ending upon sine die adjournment of the constitutional convention,* consideration being given to geographic, economic, and other pertinent factors as follows:

Appointments.

(a) four (4) members appointed by the speaker *of the house of representatives,* no more than two (2) of whom shall be affiliated with the same political party;

HeinOnline -- 1971 vol. II 1756 1971

(b) four (4) members appointed by the committee on committees *of the senate,* no more that two (2) of whom shall be affiliated with the same political party;

(c) *four (4)* members appointed by the governor, no more than *two (2)* of whom shall be affiliated with the same political party;

(d) *four (4)* members appointed by the supreme court, no more than *two (2)* of whom shall be affiliated with the same political party.

Expenses.

(2) Commission members shall be reimbursed for actual and necessary expenses incurred as commission members.

Vacancies.

(3) Vacancies in the membership of the commission shall be filled in the same manner as the original appointments, *except when the legislature is not in session a vacancy among members appointed by the Speaker of the House and the Committee on Committees of the Senate may be filled by selection of another member by the remaining members of commission.*

Chairman—officers.

(4) The commission shall select from its membership a chairman and any other officers it considers necessary.

Staff.

(5) The commission *may employ and fix the compensation and duties of necessary staff.*

Public employees may be granted leave.

(6) State, municipal and county officers and employees, at the request of the commission and with the consent of the employing agency, may be granted leave with or without pay from their agency to serve as consultants to the constitutional convention commission. If leave with pay is granted they shall receive no other compensation, except mileage and per diem, from the commission.

Duties of commission.

(7) It shall be the duty of the commission, in order to prepare for *the constitutional convention: to undertake studies and research; to compile, prepare and assemble essential information for the delegates, without any recommendation.*

Meetings.

(8) The chairman shall schedule meetings of the commission as deemed necessary. The chairman shall give due notice of the time and place of the meetings to members of the commission. The director shall report at each meeting.

HeinOnline -- 1971 vol. II 1757 1971

Records.

(9) The commission shall maintain a written record of its proceedings and its finances which shall be open to inspection by any person at the office of the commission during regular office hours.

State agencies—cooperation.

(10) Upon request, state agencies shall cooperate with the commission by furnishing assistance and data to the extent possible.

Federal funds.

(11) The commission may accept and expend any federal funds which may be available for support of the *preparatory* study.

Report of findings—recommendations.

(12) The commission shall report its findings and any recommendations it considers necessary to the convention and transfer its files to the constitutional convention within ten (10) days after the constitutional convention has convened.

Appropriations.

Section 21. (1) The following amount is appropriated from the general fund to the constitutional convention commission:

For the period ending February 1, 1972 *$149,540*

Any amount unexpended from this appropriation on February 1, 1972 is appropriated to the constitutional convention for the biennium ending June 30, 1973.

(2) The following amount is appropriated from the federal and private revenue fund to the constitutional convention commission:

For the period ending February 1, 1972 *$146,461*

Any amount unexpended from this appropriation on February 1, 1972 is appropriated to the constitutional convention for the biennium ending June 30, 1973.

(3) The following amount is appropriated from the general fund to the constitutional convention:

For the biennium ending June 30, 1973 *$499,281*

(4) The following amount is appropriated from the general fund to the secretary of state for the elections relating to the constitutional convention:

For the biennium ending June 30, 1973 *$ 41,000*

HeinOnline -- 1971 vol. II 1758 1971

Section 22. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act. Severability clause.

Section 23. This act is effective on its passage and approval. Effective immediately.

Section 24. This act is repealed effective June 30, 1973." Repealed June 30, 1973.

Section 2. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act. Severability clause.

Section 3. This act is effective on its passage and approval. Effective immediately.

Section 4. This act is repealed effective June 30, 1973. Repealed June 30, 1973.

Approved March 31, 1971.

CHAPTER NO. 2

An Act Prescribing Uniform Procedures for State Administrative Agencies, Including: Requirement for Adoption of Procedural Rules; Procedures for Adoption, Amendment or Repeal of Rules, Including Emergency Rules; Filing and Publication of Rules; Judicial Notice of Rules; Notice and Hearing Requirements for Contested Cases; Procedures for Contested Case Hearings; Procedures for Decision Making in Contested Cases; Judicial Review of Contested Case Decisions; Declaratory Rulings By Agencies; Declaratory Judgments By Courts Regarding the Validity and Application of Agency Rules; Subpoenas, Subpoena Enforcement and Compelling Testimony for Agency Proceedings; and Right to Representation in Agency Proceedings; to Provide an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

TITLE AND DEFINITIONS

Section 1. **Short title.** This act shall be known and may be cited as the "Montana Administrative Procedure Act." "Montana administrative procedure act."

Section 2. **Definitions.** For purposes of this act: Definitions.

HeinOnline -- 1971 vol. II 1759 1971

"Agency." (1) "Agency" means any board, bureau, commission, department, authority or officer of the state government authorized by law to make rules and to determine contested cases, except that the provisions of this act shall not apply to the following:

Exemptions.

(a) the legislature and any branch, committee or officer thereof;

(b) the judicial branches and any committee or officer thereof;

(c) the governor, except that an agency otherwise covered by this act shall not be exempt because the governor has been designated as a member thereof;

(d) the state military establishment and agencies concerned with civil defense and recovery from hostile attack;

(e) the state board of pardons, except that said board shall be subject to the requirements of section 3 and 5 of this act and its rules shall be published in the Montana administrative code and register;

(f) the supervision and administration of any penal, mental, medical or eleemosynary institution with regard to the admission, release, institutional supervision, custody, control, care or treatment of inmates, prisoners or patients;

(g) the administration and management of educational institutions;

(h) the financing, construction and maintenance of public works.

"Rule." (2) "Rule" means each agency regulation, standard or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency. The term includes the amendment or repeal of a prior rule, but does not include:

Exclusions.

(a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public;

(b) declaratory rulings issued pursuant to section 18 of this act;

HeinOnline -- 1971 vol. II 1760 1971

(c) intra-agency memoranda;

(d) rules relating to the use of public works, facilities, streets and highways, when the substance of such rules is indicated to the public by means of signs or signals;

(e) seasonal rules adopted annually relating to hunting, fishing and trapping when there is a statutory requirement for the publication of such rules, and rules adopted annually relating to the seasonal recreational use of lands and waters owned or controlled by the state when the substance of such rules is indicated to the public by means of signs or signals;

(f) rules relating to personnel standards, job classifications or salary ranges for agency employees;

(g) uniform rules adopted pursuant to interstate compact, except that such rules shall be filed in accordance with section 10 of this act and shall be published in the Montana administrative code and register.

"Contested case." (3) "Contested case" means any proceeding before an agency in which a determination of legal rights, duties or privileges of a party is required by law to be made after an opportunity for hearing. The term includes, but is not restricted to, rate making, price fixing and licensing.

"License." (4) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter or other form of permission required by law, but does not include a license required solely for revenue purposes.

"Licensing." (5) "Licensing" includes any agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation or amendment of a license.

"Party." (6) "Party" means any person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party; but nothing herein shall be construed to prevent an agency from admitting any person or agency as a party for limited purposes.

"Person." (7) "Person" means any individual, partnership, corporation, association, governmental subdivision or public organization of any character other than an agency.

HeinOnline -- 1971 vol. II 1761 1971

RULE MAKING

Section 3. **Rules describing agency organization and procedures — public inspection of rules — model rules.**

Duties of agency. (1) In addition to other rule making requirements imposed by law, each agency shall:

Rule—description of organization. (a) Adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

Rules of practice. (b) Adopt rules of practice, not inconsistent with statutory provisions, setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the agency.

Public inspection. (c) Make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted or used by the agency in the discharge of its functions.

Copies. (d) Upon request of any person or agency, provide a copy of any rule. Unless otherwise provided by statute, an agency may require the payment of the cost of providing such copies.

Validity. (2) No agency rule shall be valid or effective against any person or party whose rights have been substantially prejudiced by an agency's failure to comply with the public inspection requirement herein.

Duty of attorney general to prepare model forms. (3) The attorney general shall prepare, as soon as is practicable after the passage of this act, a model form for a rule describing the organization of agencies and model rules of practice for agencies to use as a guide in fulfilling the requirements of section 3 (1). The attorney general shall add to, amend or revise the model rules from time to time as he shall deem necessary for the proper guidance of agencies. The model rules, and additions, amendments or revisions thereto, shall be appropriate for the use of as many agencies as is practicable and shall be filed with the secretary of state and provided to any agency upon request. The adoption by an agency of all or part of the model rules shall not relieve the agency from following the rule making procedures required by this act.

HeinOnline -- 1971 vol. II 1762 1971

Section 4. **Adoption — amendment or repeal of rules — emergency rules.** (1) Prior to the adoption, amendment or repeal of any rule, the agency shall: Prior to adoption.

(a) Give written notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, place where, and manner in which interested persons may present their views thereon. The notice shall be filed with the secretary of state for publication in the Montana administrative register as provided in section 6 (2) of this act and mailed to persons who have made timely requests to the agency for advance notice of its rule making proceedings. The notice shall be published and mailed at least twenty (20) days in advance of the agency's intended action. If any statute shall provide for a different method of publication, the affected agency shall comply with the statute in addition to the requirements contained herein. However, in no case shall the notice period be less than twenty (20) days. Notice of intent. Filing—publication. Mailing. 20 days in advance.

(b) Afford interested persons reasonable opportunity to submit data, views or arguments, orally or in writing. In the case of substantive rules, opportunity for oral hearing shall be granted if requested by either ten percent (10%) or twenty-five (25) of the persons who will be directly affected by the proposed rule, by a governmental subdivision or agency or by an association having not less than twenty-five (25) members who will be directly affected. Contested case procedures need not be followed in hearings held pursuant to this section. Where a hearing is otherwise required by statute, nothing herein shall be deemed to alter that requirement. The agency shall consider fully written and oral submissions respecting the proposed rule. Upon adoption of a rule, an agency, if requested to do so by an interested person either prior to adoption or within thirty (30) days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Submissions. Hearing on request. Consideration of submissions. Statement of reasons on request.

(2) If an agency finds that an imminent peril to the public health, safety or welfare requires adoption of a rule upon fewer than twenty (20) days' notice and states in writing its reasons for that finding, it may proceed, without prior notice or hearing or upon any abbreviated Emergency procedures—findings.

HeinOnline -- 1971 vol. II 1763 1971

notice and hearing that it finds practicable, to adopt an emergency rule. The rule may be effective for a period not longer than one hundred and twenty (120) days, but the adoption of an identical rule under subsections (1) (a) and (1) (b) of this section is not precluded. The sufficiency of the reasons for a finding of imminent peril to the public health, safety or welfare shall be subject to judicial review.

Validity.

(3) No rule adopted after the effective date of this act shall be valid unless adopted in substantial compliance with subsections (1) and (2) of this section.

Agency may use informal hearings, advisory committees.

(4) An agency may use informal conferences and consultations as a means of obtaining the viewpoints and advice of interested persons with respect to contemplated rule making. An agency may also appoint committees of experts or interested persons or representatives of the general public to advise it with respect to any contemplated rule making. The powers of the committees shall be advisory only. Nothing herein shall relieve the agency from following rule making procedures required by this act.

Statutory references.

(5) Rules shall not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to convey the meaning of a rule interpreting the language, the reference shall clearly indicate that portion of the language which is statutory and the portion which is amplification of the language. Each rule shall include a citation of authority pursuant to which it, or any part thereof, is adopted.

Annual review of rules.

(6) Each agency shall at least annually review its rules to determine if any new rule should be adopted or any existing rule should be modified or repealed.

Section 5. **Filing of rules — effective date of rules.** Filing of rules with secretary of state.

(1) On or before the 60th day following the effective date of this act, each agency shall file with the secretary of state a certified copy of each rule adopted by it on or before the effective date of this act and remaining in effect. Any rule not so filed shall be deemed to have been abrogated by the agency and shall be void and of no effect.

Filing subsequent rules.

(2) Each agency shall file with the secretary of state a certified copy of each rule adopted by it subse-

HeinOnline -- 1971 vol. II 1764 1971

quent to the effective date of this act. Each rule shall become effective ten (10) days after publication in the Montana administrative register or code as provided in section 6 of this act, except that:

Effective dates—publication.

(a) If a later date is required by statute or specified in the rule, the later date shall be the effective date.

Later date.

(b) Subject to applicable constitutional or statutory provisions, an emergency rule shall become effective immediately upon filing with the secretary of state, or at a stated date less than ten (10) days following publication in the Montana administrative code or register, if the agency finds that this effective date is necessary because of imminent peril to the public health, safety or welfare. The agency's finding and a brief statement of reasons therefor shall be filed with the rule. The agency shall take appropriate measures to make emergency rules known to every person who may be affected by them.

Effective date—emergency rule—filing—publication.

Dissemination.

(3) The secretary of state may prescribe a format, style and arrangement for rules which are filed pursuant to this act and may refuse to accept the filing of any rule that is not in substantial compliance therewith. He shall keep and maintain a permanent register of all rules filed (including superseded and repealed rules), which shall be open to public inspection, and shall provide copies of any rule upon request of any person or agency. Unless otherwise provided by statute, the secretary of state may require the payment of the cost of providing such copies.

Format for filing.

Permanent register.

Section 6. **Publication and distribution of rules and notices.** (1) The secretary of state shall, as soon as is practicable after the effective date of this act, compile, index and publish all rules filed pursuant to this act in a publication which shall be known as the Montana administrative code (herein referred to as the code). The code shall be printed or otherwise duplicated, in loose leaf form. The secretary of state shall revise the code, or any part thereof, as often as he deems necessary.

Secretary of state shall publish Montana administrative code.

Loose leaf form.

Revision.

(2) The secretary of state shall each month compile and publish the Montana administrative register (herein referred to as the register). The register shall contain two (2) sections, a rules section and a notice section.

Monthly publication—Montana administrative register.

(a) The rules section of the register shall contain all rules filed with the secretary of state since the com-

Rules section.

HeinOnline -- 1971 vol. II 1765 1971

pilation and publication of the preceding issue of the register, and in the case of the first issue, since the effective date of this act, except that nothing herein shall require that rules filed pursuant to section 5 (1) be published in the register. This section of the register shall be printed or duplicated in the same style as the code and shall be set up so as to permit changes to be inserted as pages in the code in lieu of the pages containing superseded material and to permit additions to the code.

Notice section.

(b) The notice section of the register shall contain all rule making notices filed with the secretary of state pursuant to section 4 of this act since the compilation and publication of the preceding register, and in the case of the first issue of the register, since the effective date of this act. This section shall be printed or duplicated in such manner as to make it easily distinguishable from the rules section of the register and so that separate copies of the notice section can be provided to any person upon request to the secretary of state. The secretary of state may require the payment of the cost of providing such copies.

Title page.

Other pages.

Instructions.

(c) Each issue of the register shall contain a title page with the name "Montana administrative register", the issue number and date of the register, and a table of contents. Each page of the register shall contain the issue number and date of the register of which it is a part. The secretary of state may include in the register instructions or information to help the user in correctly making insertions or deletions in the code and to keep the code current.

Permissive omissions.

(3) The secretary of state, with the consent of the adopting agency, may omit from the code or register any rule the publication of which would be unduly cumbersome, expensive or otherwise inexpedient, if the rule in printed or duplicated form is made available on application to the agency, and if the code or register contains a notice stating the general subject matter of the omitted rule and stating how a copy may be obtained.

Arrangement for separate publications.

(4) The code shall be arranged, indexed and printed or duplicated in such manner as to permit separate publication of portions thereof relating to individual agencies. An agency may make arrangements with the secretary of state for the printing of as many copies of such separate

HeinOnline -- 1971 vol. II 1766 1971

publications as it may require. The cost of any such separate publications shall be paid by the agency. Costs.

(5) The secretary of state shall distribute copies of the code, revisions thereto and the register without charge to the following: Distribution of copies.

Attorney general, one (1) copy;

Clerk of each court of record of this state, one (1) copy;

Clerk of United States district court for the district of Montana, one (1) copy;

Clerk of United States court of appeals for the ninth circuit, one (1) copy;

Each county clerk of this state, for use of county officials and the public, one (1) copy;

State law library, one (1) copy;

State historical society, one (1) copy;

Each unit of the university of Montana, one (1) copy;

Law library of the university of Montana, one (1) copy;

Montana legislative council, three (3) copies;

Library of congress, one (1) copy;

State law library, for such exchanges as it may establish with libraries of other states, not to exceed fifty (50) copies;

Law library of the university of Montana, for such exchanges as it may establish with institutions of higher education in other states, not to exceed fifty (50) copies.

The secretary of state, clerk of each court of record in the state, clerk of each county in the state and the librarians for the state law library and the university of Montana law library shall maintain a complete, current set of the code, including revisions thereto and additions or changes published in the register. Such persons shall also maintain a file of rule making notices published in the register during the preceding two (2) years. The secretary of state shall also maintain a permanent register of rule making notices. Duty to maintain complete, current sets.

HeinOnline -- 1971 vol. II 1767 1971

Subscriptions.

(6) The secretary of state shall make copies of and subscriptions to the code, revisions thereto and the register available to any person at prices fixed to cover publication and mailing costs.

Fees.

(7) The secretary of state shall determine the cost of supplying copies of the code, revisions thereto and the register. Such cost shall be the approximate cost of printing or duplicating and mailing. However, a uniform price per page or group of pages may be established without regard to differences in cost of printing different parts of the code, revisions thereto and the register.

Deposit of fees.

(8) All fees collected by the secretary of state shall be deposited to the general fund.

Petition to agency—rule making.

Section 7. **Petition for adoption of rules.** An interested person may petition an agency requesting the promulgation, amendment or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration and disposition. Within sixty (60) days after submission of a petition, the agency either shall deny the petition in writing (stating its reasons for the denial) or shall initiate rule making proceedings in accordance with section 4 of this act.

Form and procedure.

Within 60 days—agency decision.

Judicial notice.

Section 8. **Judicial notice of rules.** The courts shall take judicial notice of any rule filed and published under the provisions of this act.

CONTESTED CASES

Notice of hearing in contested cases.

Section 9. **Notice — hearing — record.** (1) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.

Inclusions.

(2) The notice shall include:

(a) A statement of the time, place and nature of the hearing.

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(c) A reference to the particular sections of the statutes and rules involved.

(d) A short and plain statement of the matters asserted. If the agency or other party is unable to state

HeinOnline -- 1971 vol. II 1768 1971

the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

(3) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved. Rights of parties.

(4) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default. Disposition.

(5) The record in a contested case shall include: Record inclusions.

(a) All pleadings, motions, intermediate rulings.

(b) All evidence received or considered, including a stenographic record of oral proceedings when demanded by a party.

(c) A statement of matters officially noticed.

(d) Questions and offers of proof, objections, and rulings thereon.

(e) Proposed findings and exceptions.

(f) Any decision, opinion or report by the hearing examiner or agency member presiding at the hearing.

(g) All staff memoranda or data submitted to the hearing examiner or members of the agency as evidence in connection with their consideration of the case.

(6) The stenographic record of oral proceedings or any part thereof shall be transcribed on request of any party. Unless otherwise provided by statute, the cost of the transcription shall be paid by the requesting party. Transcription.

(7) Findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact.

Section 10. **Rules of evidence — official notice.** (1) Except as otherwise provided by statute relating directly to an agency, agencies shall be bound by common law and statutory rules of evidence. Objections to evidentiary offers may be made and shall be noted in the record. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Rules of evidence.

HeinOnline -- 1971 vol. II 1769 1971

Documentary evidence.

(2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

Right to cross-examine.

(3) A party shall have the right to conduct cross-examinations required for a full and true disclosure of facts, including the right to cross-examine the author of any document prepared by or on behalf of or for the use of the agency and offered in evidence.

Notice may be taken of facts.

(4) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of evidence.

Section 11. **Hearing examiners — conduct of hearings — disqualification of hearing examiners and agency members.** Hearing examiners. (1) An agency shall have authority to appoint hearing examiners for the conduct of hearings in contested cases.

Powers and duties.

(2) Agency members or hearing examiners presiding over hearings shall be authorized to administer oaths or affirmations; issue subpoenas pursuant to section 20 of this act; provide for the taking of testimony by deposition; regulate the course of hearings, including setting the time and place for continued hearings and fixing the time for filing of briefs or other documents; and direct parties to appear and confer to consider simplification of the issues by consent of the parties. All testimony shall be given under oath or affirmation.

Disqualification.

(3) A hearing examiner or agency member may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a hearing examiner or agency member, the agency shall determine the matter as a part of the record and decision in the case.

Section 12. **Examination of evidence by agency — pro-**

HeinOnline -- 1971 vol. II 1770 1971

posed orders. When in a contested case a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision, prepared by the person who conducted the hearing or one who has read the record. The parties may waive compliance with this section by written stipulation.

Proposal for decision—service on parties.

Statement of reasons.

Waiver by stipulation.

Section 13. **Final orders — notification.** (1) A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision ssall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

Final orders.

Findings of fact—conclusive of law

Proposed findings

Notice.

Copies.

(2) Each agency shall index and make available for public inspection all final decisions and orders, including declaratory rulings under section 18, issued after the effective date of this act. No such agency decision or order shall be valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection as herein required. This provision is not applicable in favor of any person or party who has actual knowledge thereof or when a state statute or federal statute or regulation prohibits public disclosure of the contents of a decision or order.

Indexing—public inspection.

Validity.

Section 14. **Ex parte consultations.** Unless required for disposition of ex parte matters authorized by law, the person or persons who are charged with the duty of

Ex parte consulations forbidden.

HeinOnline -- 1971 vol. II 1771 1971

rendering a decision or to make findings of fact and conclusions of law in a contested case, after issuance of notice of hearing, shall not communicate with any party or his representative in connection with any issue of fact or law in such case except upon notice and opportunity for all parties to participate.

Licensing—application of act.

Section 15. **Licenses.** (1) When the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation or amendment of a license is required by law to be preceded by notice and opportunity for hearing, the provisions of this act concerning contested cases apply.

Abatement of license expiration.

(2) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

Notice and opportunity to comply required.

(3) No revocation, suspension, annulment, withdrawal or amendment of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Judicial review after exhaustion of administrative remedies.

Section 16. **Judicial review of contested cases.** (1) A person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review under this act. This section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by statute. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

HeinOnline -- 1971 vol. II 1772 1971

Party may question validity of statute.

A party who proceeds before an agency under the terms of a particular statute shall not be precluded from questioning the validity of that statute on judicial review, but such party may not raise any other question not raised before the agency, unless it is shown to the satisfaction of the court that there was good cause for failure to raise the question before the agency.

Petition to district court.

(2) Proceedings for review shall be instituted by filing a petition in district court within thirty (30) days after service of the final decision of the agency, or if a rehearing is requested, within thirty (30) days after the decision thereon. Except as otherwise provided by statute, the petition shall be filed in the district court for the county where the petitioner resides or has his principal place of business, or where the agency maintains its principal office. Copies of the petition shall be promptly served upon the agency and all parties of record.

Service.

Jurisdictional facts.

The petition shall include a concise statement of the facts upon which jurisdiction and venue are based, a statement of the manner in which the petitioner is aggrieved and the ground or grounds specified in subsection 7 of this section upon which the petitioner contends he is entitled to relief. The petition shall demand the relief to which the petitioner believes he is entitled, and the demand for relief may be in the alternative.

Stay of enforcement.

(3) Unless otherwise provided by statute, the filing of the petition shall not stay enforcement of the agency's decision. The agency may grant, or the reviewing court may order, a stay upon terms which it deems proper.

Record of proceedings.

(4) Within thirty (30) days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

Application to present additional evidence.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court

HeinOnline -- 1971 vol. II 1773 1971

that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

Conduct of review.

(6) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereof may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

Judgment—court decisions.

(7) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority of the agency;

(c) made upon unlawful procedure;

(d) affected by other error of law;

(e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;

(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(g) because findings of fact, upon issues essential to the decision, were not made although requested.

Appeal to supreme court.

Section 17. **Appeals.** An aggrieved party may obtain review of a final judgment of a district court under this act by appeal to the supreme court within sixty (60) days after entry of judgment. Such appeal shall be taken in the manner provided by law for appeals from

HeinOnline -- 1971 vol. II 1774 1971

district courts in civil cases. Unless otherwise provided by statute or unless the agency has granted a stay through the completion of the judicial review process:

Stay on appeal.

(1) If appeal is taken from a judgment of the district court affirming an agency decision, the agency decision shall not be stayed except upon order of the supreme court; except that, in cases where a stay is in effect at the time of the filing of notice of appeal, the stay shall be continued by operation of law for twenty (20) days from the date of filing of the notice.

(2) If appeal is taken from a judgment of the district court reversing or modifying an agency decision, the agency decision shall be stayed pending final determination of the appeal unless the supreme court orders otherwise.

GENERAL PROVISIONS

Declaratory rulings—petitions.

Section 18. **Declaratory rulings by agencies.** Each agency shall provide by rule for the filing and prompt disposition of petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the agency. A declaratory ruling, or the refusal to issue such a ruling, shall be subject to judicial review in the same manner as decisions or orders in contested cases.

Declaratory judgments.

Section 19. **Declaratory judgments on validity or application or rules.** The validity or application of a rule may be determined in an action for declaratory judgment if it is found that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the plaintiff. The action may be brought in the district court for the county in which the plaintiff resides or has his principal place of business, or in which the agency maintains its principal office. The agency shall be made a party to the action. A declaratory judgment may be rendered whether or not the plaintiff has requested the agency to pass upon the validity or applicability of the rule in question.

District court.

Subpoena power.

Section 20. **Subpoenas and enforcement — compelling testimony.** (1) An agency conducting any proceeding subject to this act shall have the power to require the furnishing of such information, the attendance of such

HeinOnline -- 1971 vol. II 1775 1971

witnesses, and the production of such books, records, papers, documents and other objects as may be necessary and proper for the purposes of the proceeding. In furtherance of this power, an agency upon its own motion may, and upon request of any party appearing in a contested case shall, issue subpoenas for witnesses or subpoenas duces tecum. The method for service of subpoenas, witness fees and mileage shall be the same as required in civil actions in the district courts of the state. Except as otherwise provided by statute, witness fees and mileage shall be paid by the party at whose request the subpoena was issued.

Contempt proceedings.

(2) In case of disobedience of any subpoena issued and served under this section or of the refusal of any witness to testify as to any material matter with regard to which he may be interrogated in a proceeding before the agency, the agency may apply to any district court in the state for an order to compel compliance with the subpoena or the giving of testimony. If the agency fails or refuses to seek enforcement of a subpoena issued at the request of a party, or to compel the giving of testimony deemed material by a party, the party may make such application. The court shall hear the matter as expeditiously as possible. If the disobedience or refusal is found to be unjustified, the court shall enter an order requiring compliance. Disobedience of such order shall be punishable by contempt of court in the same manner and by the same procedures as is provided for like conduct committed in the course of civil actions in district courts. If another method of subpoena enforcement or compelling testimony is provided by statute, it may be used as an alternative to the method provided for in this section.

Right to counsel.

Section 21. **Representation.** Any person compelled to appear in person or who voluntarily appears before any agency or representative thereof shall be accorded the right to be accompanied, represented and advised by counsel. In a proceeding before an agency, every party shall be accorded the right to appear in person or by or with counsel but this act shall not be construed as requiring an agency to furnish counsel to any such person.

Service as in civil actions.

Section 22. **Service.** Except where a statute expressly provides to the contrary, service in all agency proceedings subject to the provisions of this act and in

HeinOnline -- 1971 vol. II 1776 1971

proceedings for judicial review thereof, shall be as prescribed for civil actions in the district courts.

Construction and effect.

Section 23. **Construction and effect.** Nothing in this act shall be deemed to limit or repeal requirements imposed by statute or otherwise recognized law. No subsequent legislation shall be deemed to supercede or modify any provision of this act, whether by implication or otherwise, except to the extent that such legislation shall do so expressly.

Repealing clause.

Section 24. **Repeal of inconsistent provisions.** All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Severability clause.

Section 25. **Severability.** The provisions of this act are severable, and if any part of provision thereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining part of provisions of this act.

Effective December 31, 1972.

Section 26. **Time of taking effect.** This act shall take effect on December 31, 1972, except that pending proceedings shall not be affected.

CHAPTER NO. 3

An Act to Apportion the Legislative Assembly According to the 1970 Federal Census; and Repealing Sections 43-106.1 and 43-106.2, R.C.M., 1947, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

55 member senate.

Districts.

Section 1. **Number of senators — senatorial districts and apportionment.** The senate of the legislative assembly shall consist of fifty-five (55) members. The senatorial districts and the number of senators elected from each district are as follows:

Senatorial District No.	Number of Senators	District Consists of County or Counties
1	1	Carter, Fallon, Wibaux, Powder River
2	1	Dawson
3	1	Richland and McCone

HeinOnline -- 1971 vol. II 1777 1971

4	1	Roosevelt
5	2	Valley, Daniels, Sheridan
6	1	Rosebud, Treasure, Garfield, Prairie
7	1	Custer
8	1	Big Horn
9	6	Yellowstone
10	1	Phillips, Blaine
11	2	Fergus, Judith Basin, Chouteau, Petroleum
12	1	Musselshell, Golden Valley, Wheatland, Sweetgrass
13	1	Carbon, Stillwater
14	1	Park
15	3	Gallatin
16	1	Jefferson, Broadwater, Meagher
17	6	Cascade
18	2	Hill, Liberty, Toole
19	1	Pondera, Teton
20	3	Lewis and Clark
21	2	Deer Lodge, Powell, Granite
22	3	Silver Bow
23	1	Beaverhead, Madison
24	1	Ravalli
25	4	Missoula
26	1	Lake
27	1	Glacier
28	3	Flathead
29	2	Lincoln, Sanders, Mineral

Terms of office. Section 2. The senators shall continue to be elected for the term of four years, and they shall continue to be

HeinOnline -- 1971 vol. II 1778 1971

divided into two classes, with terms concluding in alternate biennials. The senators in districts 11, 18 and 29 shall all be elected at the general election in 1972 and, pursuant to the regulations to be promulgated by the secretary of state, draw lots for the purpose of determining which of said elected senators of said districts shall serve for four (4) years and which shall serve for two (2) years; provided, however, that in districts 15 and 20 the holdover senator shall serve out the term to which he was elected. The new senator in district 15 and 20 shall serve for a two year term upon his or her first election in 1972. An election for a four-year term for senator shall be held in districts 1 and 6 at the next general election. In districts 8 and 19 the present terms of office of those senators shall not be affected. The term of those senators not specifically named above shall not be affected and shall continue until termination of the present term.

Severability clause.

Section 3. If any clause, sentence, paragraph, section, or any part of this act shall be declared and adjudged to be invalid and/or unconstitutional, such invalidity or unconstitutionality shall not affect, impair, invalidate or nullify the remainder of this act.

104 member house of representatives.

Section 4. **Number of representatives—representative districts and apportionment.** The house of representatives of the legislative assembly shall consist of one hundred four (104) members. The representatives elected from each district are as follows:

Districts.

Repres't'tive District No.	Number of Representatives	District Consists of County or Counties
1	2	Carter, Fallon, Wibaux, Prairie, Powder River
2	2	Roosevelt, McCone
3	3	Richland, Dawson
4	3	Valley, Daniels, Sheridan
5	3	Petroleum, Garfield, Rosebud, Treasure, Big Horn
6	2	Custer
7	13	Yellowstone
8	2	Phillips, Blaine

HeinOnline -- 1971 vol. II 1779 1971

9	3	Chouteau, Judith Basin, Fergus
10	1	Wheatland, Golden Valley, Musselshell
11	2	Carbon, Stillwater, Sweetgrass
12	3	Jefferson, Broadwater, Meagher, Park
13	5	Gallatin
14	12	Cascade
15	3	Hill, Liberty
16	3	Glacier, Toole
17	1	Pondera
18	1	Teton
19	5	Lewis and Clark
20	1	Powell
21	3	Granite, Deer Lodge
22	6	Silver Bow
23	2	Beaverhead, Madison
24	2	Ravalli
25	9	Missoula
26	2	Lake
27	6	Flathead
28	4	Lincoln, Sanders, Mineral

Repealing clause.

Section 5. Sections 43-106.1 and 43-106.2, R.C.M., 1947, are repealed.

Effective immediately.

Section 6. This act is effective upon passage and approval.

Approved April 6, 1971.

CHAPTER NO. 4

An Act to Amend the Laws Relating to the Location and Assessment Work Requirements upon Mining Claims by Amending Section 50-701(3), R.C.M., 1947, to Pro-

HeinOnline -- 1971 vol. II 1780 1971

vide for Compliance with United States Mining Laws to Eliminate the Location Requirement of Sinking a Discovery Shaft; Amending Section 50-702, R.C.M., 1947, to Provide that the County Clerk Shall Provide a Copy of Each Certificate of Location to the Department of State Lands and Investments, to Change the Information Required on the Certificate of Location, and to Provide that Failure to Record the Certificate of Location Shall Create a Prima Facie Presumption of Intent to Abandon; Amending Section 50-704, R.C.M., 1947, to Change the Information Required on the Affidavit of Performance of Annual Work, to Provide for Group Assessment Work upon Contiguous Claims, to Provide that Recording of the Affidavit is Mandatory, to Provide that the Affidavit be Verified, and to Provide that Failure to Record the Assessment Affidavit is Prima Facie Evidence of Failure to Perform Such Labor and that the Owner Has Abandoned Same.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 50-701, R.C.M., 1947, is amended to read as follows:

Discovery of minerals.

"50-701. **Discovery — notice — marking boundaries — sinking shaft.** Any person who discovers upon the public domain of the United States, within the state of Montana, a vein, lode, or ledge of rock in place, bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, or a placer deposit of gold, or other deposit of minerals having a commercial value which is subject to entry and patent under the mining laws of the United States, may, if qualified by the laws of the United States, locate a mining claim upon such vein, lode, ledge, or deposit in the following manner, viz.:

Location of mining claim—procedure.

Posting—notice of location.

1. He shall post, conspicuously, at the point of discovery, a written or printed notice of location, containing the name of the claim, the name of the locator (or locators, if there be more than one), the date of the location, which shall be the date of posting such notice, and the approximate dimensions of area of the claim intended to be appropriated.

Marking boundaries.

2. Within thirty days after posting the notice of location, he shall distinctly mark the location on the ground so that its boundaries can be readily traced. It shall be prima-facie evidence that the location is properly marked

HeinOnline -- 1971 vol. II 1781 1971

if the boundaries are defined by a monument at each corner or angle of the claim, consisting of any one of the following kinds: (1) A tree at least eight inches in diameter, and blazed on four sides; (2) A post at least four inches square by four feet six inches in length, set one foot in the ground unless solid rock should occur at a less depth, in which case the post should be set upon such rock, and surrounded in all cases by a mound of earth or stone at least four feet in diameter by two feet in height. A squared stump of the requisite size, surrounded by such *mound,* shall be deemed the equivalent of a post and mound; (3) A stone at least six inches square by eighteen inches in length, set two-thirds of its length in the ground, with a mound of earth or stone alongside at least four feet in diameter by two feet in height; or (4) A boulder at least three feet above the natural surface of the ground on the upper side. Where other monuments, or monuments of lesser dimensions than those above described, are used, it shall be a question for the jury, or for the court where the action is tried without a jury, as to whether the location has been marked upon the ground so that its boundaries can be readily traced. Whatever monument is used, it must be marked with the name of the claim and the designation of the corner, either by number or cardinal point.

Compliance with federal mining laws.

3. Within sixty *(60)* days after posting such notice, *the locator shall comply with the United States mining laws."*

Amending clause.

Section 2. Section 50-702, R.C.M., 1947, is amended to read as follows:

Recording location with county clerk.

"50-702. **Record of certificate of location.** Within sixty *(60)* days after posting the notice of location, the locator shall record his location in the office of the county clerk of the county in which such mining claim is situated,

Clerk shall provide copy to state.

and within twenty (20) days thereafter the county clerk shall provide a copy thereof to the department of state lands and investments, Helena, Montana, or its successor agency.

Certificate of location—requirements.

Such record shall consist of a certificate of location *for each claim* containing:

1. The name of the lode or claim *and whether located as a lode or placer claim.*

HeinOnline -- 1971 vol. II 1782 1971

2. The name of the locator or locators, if there be more than one, *together with the post office address of such locator or locators.*

3. The date of location, and such description of said claim, with reference to some natural object or permanent monument, as will identify the claim *and the section, township, and range wherein the claim is situated (by projected survey lines if located in unsurveyed country).*

4. *The directions and distances from the discovery point which describe the claim.*

Such certificate of location must be verified, before some officer authorized to administer oaths, by the locator, or one of the locators if there be more than one, or by authorized agent. In the case of a corporation, the verification may be made by any officer thereof, or by an authorized agent. When the verification is made by an agent, the fact of the agency shall be stated in the affidavit. A certificate of location so verified, or a certified copy thereof, is prima-facie evidence of all facts properly recited therein. *Failure of the locator or locators to record a certificate of location as herein required shall create a prima-facie presumption of intent to abandon. However, recordation after the sixty (60) day period but before the ground is located by another renews the location and saves the rights of the original locator. Nothing contained in section 50-713, R.C.M., 1947, shall be held to affect the prima-facie presumption created by this section."*

Verification.

Evidence.

Presumption.

Section 3. Section 50-704, R.C.M., 1947, is amended to read as follows:

Amending clause.

"50-704. **Recording of affidavit of performance of annual work.** The owner of a lode or placer claim who performs or causes to be performed the annual work, or makes the improvements required by the laws of the United States, *as permitted and defined by laws of the United States,* in order to prevent the forfeiture of the claim, *must,* within *ninety (90)* days after the *expiration of the federal annual assessment work period,* file in the office of the county clerk of the county in which such claim *or claims* is situated an affidavit of his own, or an affidavit of the person who performed such work or made the improvements, showing:

Recording—affidavit of annual work performed.

Affidavit requirements.

1. The name of the mining claim *or claims;*

HeinOnline -- 1971 vol. II 1783 1971

2. The location of the claim or claims by section, township, and range (by projected survey lines if located in unsurveyed country);

3. The book and page numbers wherein the original or latest amended relocation for each claim is recorded;

4. The number of days' work done, and the character and value of the improvements placed thereon, *or the verified report required by United States mining law if geological, geophysical, or geochemical work or labor is being relied upon;*

5. The dates between which such work or improvements were effected;

6. At whose instance the work was done or the improvements made;

7. The actual amount paid for work and improvements, and by whom paid when the same was not done by the owner.

Annual assessment work on contiguous claims.

Annual assessment work may be performed or caused to be performed at one (1) or more points within a group of contiguous claims not exceeding ten (10) claims and may be utilized to satisfy annual assessment work requirements upon the group of contiguous claims. If annual assessment work is performed or caused to be performed at one (1) or more points within a group of contiguous claims not exceeding ten (10), the affidavit of performance of assessment work must be filed for the group of claims. The affidavit, in addition to requirements established by this section for affidavits of performance of assessment work, must contain a description and location of the work done upon the group at a point or points within the group, the specific names of all the claims in the group for whose benefit the work was performed, and the total cost of the work performed.

Affidavit—group of claims.

Filing in each county.

If group work is claimed for a group of claims crossing county lines, the affidavit required by this section shall be filed for recording within the required time in each of the counties in which such claims are located.

Verification of affidavit.

An affidavit of performance of annual assessment work must be verified, before some officer authorized to administer oaths, by the locator, or one of the locators if there be more than one, or by authorized agent. In the case of

HeinOnline -- 1971 vol. II 1784 1971

a corporation, the verification may be made by any officer thereof, or by an authorized agent. When the verification is made by an agent, the fact of the agency shall be stated in the affidavit. Such affidavits, or a certified copy thereof, are prima-facie evidence of the facts therein stated. *The failure to file such affidavits within the period allowed therefor shall be prima-facie evidence that such labor has not been performed and that the owner of the claim or claims has abandoned and surrendered same.''*

Evidence.

Approved April 6, 1971.

CHAPTER NO. 5

An Act to Amend Chapter 333, Session Laws of 1971, in Order to Clarify the Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1501, R.C.M., 1947, as amended by chapter 333, Session Laws of 1971, is amended to read as follows:

Amending clause.

"84-1501. **Corporation license tax—organizations exempt therefrom.** The term corporation includes associations, joint-stock companies, common-law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agreements, declarations of trust. Every corporation, except as hereinafter provided and except as provided in section 40-2821 (5), R.C.M., 1947, organized and existing under the laws of the state of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said state of Montana, such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth; and every corporation, except as hereinafter provided, organized and existing under the laws of any other state or country, or the United States, and engaged in business in the state of Montana, shall annually pay for the exclusive use and benefit of the state of Montana a license fee for carrying on its business in the state of Montana of such percentage or percentages of total net income received by such corporation

Corporation defined.

Payment of annual license fee required.

HeinOnline -- 1971 vol. II 1785 1971

in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth.

6¼% of net income.

The percentage of net income to be paid under this section shall be six and one-quarter percent (6¼%) of all net income for the taxable period. The rate set forth in this act shall be effective for *all* taxable years *ending on or* after February 28, 1971. Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than fifty dollars ($50).

Taxable years ending on or after February 28, 1971.

Minimum.

Income exemptions.

There shall not be taxed under this title any income received by any—

(a) Labor, agricultural or horticultural organization;

(b) Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive benefit of the members of fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

(c) Cemetery company owned and operated exclusively for the benefit of its members;

(d) Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

(e) Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

(f) Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

(g) Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

(h) Farmers' or other mutual hail, cyclone or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which

HeinOnline -- 1971 vol. II 1786 1971

consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

(i) Any cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis;

(j) Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(k) In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function."

Effective dates.

Section 2. The rate set forth in this act shall be effective as to all taxable years ending on or after February 28, 1971, whether on the calendar or fiscal year basis.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved April 6, 1971.

HeinOnline -- 1971 vol. II 1787 1971

HeinOnline -- 1971 vol. II 1788 1971

APPROPRIATIONS

ENACTED BY THE

Extraordinary Session

OF THE

Forty-Second Legislative Assembly

STATE OF MONTANA

1971

HeinOnline -- 1971 vol. II 1789 1971

HeinOnline -- 1971 vol. II 1790 1971

APPROPRIATION MEASURES

EXTRAORDINARY SESSION HOUSE BILL NO. 1

An Act Appropriating Money for the Operation of the Extraordinary Session of the Forty-Second Legislative Assembly Convened on March 8, 1971; Specifying an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. One hundred fifty thousand dollars ($150,000) is appropriated from the general fund for the operation of the extraordinary session of the forty-second legislative assembly convened on March 8, 1971.

Approved March 15, 1971.

EXTRAORDINARY SESSION HOUSE BILL NO. 2

An Act to Appropriate Money for Capital Projects for the Biennium Ending June 30, 1973; Providing for Other Matters Relating to the Appropriations; Repealing Chapter 238, Laws of 1969, and Sections 1, 4, 5, 6, 7 and 8, Chapter 375, Laws of 1969; and Prescribing the Method of Accounting for Expenditure of Non-Appropriated Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act shall be known and may be cited as the "Capital Construction Budget Act of 1973".

Section 2. For the purposes of this act, unless otherwise stated:

(1) "Agency" includes all state offices, departments, divisions, boards, commissions, councils, committees, university system, board of institutions and other entities or instrumentalities of state government.

(2) "Capital project" means acquisition of land or improvements, planning, capital construction, renovation, furnishings and major repair projects authorized in this act.

(3) "Approved budget amendment" means approval by the state controller of a request submitted through the budget division to:

(a) obtain financing for a new or expanded project from funds which were not available for consideration by the legislature, but which have become available; or

HeinOnline -- 1971 vol. II 1791 1971

(b) transfer of excess funds appropriated to a capital project within an agency to increase the appropriations of another capital project with that agency.

Section 3. No new capital project may be established and no existing capital project may be expanded beyond the scope of the project as approved by the legislature in the 1973 biennial budget, unless the new capital project or the capital project expansion is authorized by an approved budget amendment.

Section 4. If a capital project is jointly financed by an appropriation or appropriations from state sources as well as by appropriations from other sources, the funds provided by appropriation from state sources shall be decreased by the amount that the funds received from other sources exceeds the amount from other sources appropriated by the legislature in the 1973 biennial budget; provided that:

(1) the decrease does not jeopardize the receipt of the funds to be received from other sources; and

(2) this section shall not apply to any excess funds if they are to be expended for a new or expanded project approved by the state controller upon request submitted to him through the budget division.

Section 5. When an agency receives federal funds as a reimbursement for the cost of administering a federal program and this cost was financed by an appropriation from state funds, the federal funds shall be deposited into the state fund from which the disbursements were originally made, unless usage of the federal funds is restricted by federal provisions.

Section 6. Notwithstanding any other provisions of law, the remaining balances on capital projects authorized by the legislature are hereby reappropriated until June 30, 1973, for the purposes for which originally appropriated, the unexpended balances of carried over capital projects completed during the 1971-1973 biennium.

Section 7. It is the desire of the Forty-second Legislature to rescind for a period of two (2) years, the authorization granted by chapter 374, Laws of 1969, Forty-first Legislature, for building a new academic facility at the Mountain View School to allow the Legislative Council to reevaluate and study alternate methods to the educational consideration that led to the request to construct this facility.

HeinOnline -- 1971 vol. II 1792 1971

Section 8. Chapter 238, Laws of 1969, and sections 1, 4, 5, 6, 7 and 8, chapter 375, Laws of 1969, are repealed.

Section 9. If any section, subsection, sentence, clause, or phrase of the act is for any reason held unconstitutional or void such decision shall not affect the validity of the remaining portions of this act.

Section 10. The following money is appropriated from indicated accounts and funds to the state controller for the biennium ending June 30, 1973, for the following capital projects:

	Long Range Building Program Account Bond Proceeds and Insurance Clearance Fund	Construction Grant Account Federal and Private Revenue Fund
EXECUTIVE BRANCH		
DEPARTMENT OF ADMINISTRATION		
Renovate capitol building	$ 112,000	$
Analyze capitol complex space needs	15,000	
Renovate old board of health building	30,000	
Renovate governor's mansion	20,000	
BOARD OF EDUCATION		
Great Falls vo-tech grant	1,000,000	1,000,000
Missoula vo-tech grant	200,000	
SCHOOL FOR THE DEAF AND BLIND		
Remodeling and planning	125,000	
EASTERN MONTANA COLLEGE		
Renovate, develop, pre-plan and acquire land	480,000	
HISTORICAL SOCIETY		
Pave, light, and landscape parking lot	40,000	

HeinOnline -- 1971 vol. II 1793 1971

MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY		
Construct new academic facilities, remodel existing facilities, acquire land and extend utililities	$1,500,000	$
MONTANA STATE UNIVERSITY		
Supplement nursing building		50,000
Remodel and renovate buildings	120,000	
Expand utility system	175,000	
Construct classroom office building	2,500,000	440,620
Supplement life science building		75,000
Construct extension building		125,000
NORTHERN MONTANA COLLEGE		
Pre-plan new library	20,000	
Repair and renovate buildings	59,500	
Construct physical plant vehicle and equipment building	25,000	
UNIVERSITY OF MONTANA		
Supplement science complex	250,000	
Construct Yellow Bay Biological Station sewage system	250,000	
Complete and renovate clinical service and art annex	550,000	
Renovate and update miscellaneous projects	220,000	
WESTERN MONTANA COLLEGE		
Develop, renovate and improve miscellaneous projects	120,000	

HeinOnline -- 1971 vol. II 1794 1971

BOULDER RIVER SCHOOL AND HOSPITAL		
Renovate existing cottages	115,000	
Renovate hospital	224,000	
Replace roofs	76,000	
Renovate Junior Hall for warehouse	85,000	
CENTER FOR THE AGED		
Replace hot water tanks and renovate controls	10,000	
Modify fire detection and alarm system	9,500	
Black top and light service area	19,500	
EASTMONT TRAINING CENTER		
Construct garage and storage buildings	29,200	
GALEN STATE HOSPITAL		
Replace corridor glass	2,000	
Construct exhaust ducts for Byram and C.B. buildings	15,000	
Replace roof and renovate alcoholic dormitory	43,000	
Replace roof for hospital annex	8,400	
Replace main transformers	9,000	
Add fire protection projects and fire hydrant	40,000	
PINE HILLS SCHOOL		
Construct utility tunnels	85,000	
Renovate cottages, extend water main and install irrigation system	25,300	
STATE PRISON		
Construct new prison	1,000,000	3,000,000

HeinOnline -- 1971 vol. II 1795 1971

If it is apparent that the federal participation in this project is not forthcoming within eighteen (18) months from the start of the 1971-1973 biennium, authorization is granted to expend up to $200,000 of this money for maintenance and renovation upon the approval of the Board of Institutions.		
SWAN RIVER YOUTH FOREST CAMP		
Construct standby well and pump	5,000	
Construct vehicle storage and maintenance shop	21,930	21,930
VETERANS HOME		
Construct additional nursing facilities	43,500	43,500
Install smoke and heat detection system	15,000	
WARM SPRINGS STATE HOSPITAL		
Install security and safety fixtures	75,000	
Replace sewer line	36,000	
Reroof receiving hospital	38,250	
Reroof old portion multi-purpose building	6,000	
Renovate Mussigbrod building	350,000	
Renovate Warren-Kansas building phase II	300,000	
FISH AND GAME DEPARTMENT		
Supplement Chief Plenty Coups Museum	35,000	
Acquire and preserve Beaverhead Rock	30,000	30,000

HeinOnline -- 1971 vol. II 1796 1971

Acquire and preserve miscellaneous historic sites	10,000	10,000
Acquire and preserve Bannack property	10,000	10,000
Construct office, laboratory, and storage district 1 headquarters	50,000	
Grant for recreational facilities —Lake Francis	60,000	60,000
Feasibility study and plans and specifications—Giant Springs	15,000	
Acquire land and develop Giant Springs State Park	110,500	60,500
Acquire land and develop Ulm Pishkin	30,000	30,000
Grant for fish pond—Wibaux	7,800	7,800
STATE FORESTER		
Construct tool warehouse shop and dispatch office, Missoula headquarters	77,000	
ADJUTANT GENERAL		
Supplement Helena aviation shop addition and armory	37,000	239,000
Construct armory additions at Kalispell and Billings	10,800	32,400
HIGHWAY PATROL		
Construct division headquarters —Glendive	105,375	

Section 11. The following money is appropriated from indicated accounts and funds of various state agencies to Architecture and Engineering Construction Advance Account Revolving Fund for the biennium ending June 30, 1973, for the following capital projects:

	Earmarked Revenue Fund	Federal and Private Revenue Fund
OIL AND GAS COMMISSION		
(1) From the oil and gas account for:		
Improve office facilities	$ 186,000	

HeinOnline -- 1971 vol. II 1797 1971

MONTANA STATE UNIVERSITY	
(1) From the experiment station account for:	
Construct feed preparation plant	100,000
FISH AND GAME DEPARTMENT	
(1) From the fish and game account for:	
Provide new office and laboratory, district 1 headquarters	5,340
Construct cold storage facility, district 2 headquarters	5,000
Add air conditioning, district 3 headquarters	2,200
Remodel office, district 4 headquarters	3,000
Renovate heating and air conditioning, district 5 headquarters	2,630
Enlarge and improve existing parking lot, district 5 headquarters	3,800
Construct metal storage shed, district 6, headquarters	250
Heat existing shop, district 7 headquarters	2,500
Fence storage area, district 7 headquarters	2,000
Pave parking lot, district 7 headquarters	2,000
Renovate warehouse storage facilities, Helena	700
Improve lakes and streams	50,000
Construct water supply pipeline, Big Springs Hatchery	50,000
Construct residence, Bluewater Hatchery	30,000
Develop Creston Hatchery	38,000

HeinOnline -- 1971 vol. II 1798 1971

Modify water supply, Washoe Hatchery, Anaconda	15,000	
Improve water supply, Bluewater Hatchery	9,000	
Construct mooring and haul-out facility	1,375	4,125
Construct shop and storage building, Bluewater Hatchery	25,000	
Construct residence, Jocko River Hatchery, Arlee	30,000	
Replace drain lines, Washoe Park Hatchery, Anaconda	5,000	
Build garage, Giant Springs Hatchery, Great Falls	3,000	
Construct septic tank, Flathead Hatchery, Somers	500	
Relocate roadway, Jocko River Hatchery, Arlee	15,000	
Acquire and develop land. Such acquisition shall be contingent upon the approval of the Montana state board of land commissioners	200,000	600,000
Improve Ninepipe road and parking area	375	1,125
Develop Blackfoot-Clearwater game range pond	550	1,630
Develop Bitterroot fence and campground	950	2,450
Develop Warm Springs pond	5,000	15,000
Develop Canyon Ferry	4,050	12,150
Develop Clark Canyon	450	1,350
Construct Sun River storage shed	550	1,650
Reseed Judith game range	500	1,500
Improve Freezout public use facility	1,250	3,750
Develop Milk River	375	1,125

HeinOnline -- 1971 vol. II 1799 1971

Develop Isaac homestead	1,000	3,000
Construct Warm Springs garage	3,400	
Fence Beartooth game range	1,750	5,250
Develop Cooney reservoir	3,000	9,000
Acquire and develop fishing access sites	188,000	188,000
(2) From the state parks account, for:		
Construct Wayfarer state recreation area	62,500	62,500
Improve Ennis state recreation area	35,000	35,000
Improve Rosebud state recreation area	12,500	12,500
Improve Walstad Memorial recreation area	5,000	5,000
Improve Beartooth recreation area	25,000	25,000
Improve West Shore state park	12,500	12,500
Improve Hell Creek recreation area	12,500	12,500
AERONAUTICS COMMISSION		
(1) From the aeronautics commission account for:		
Renovate West Yellowstone airport lighting	50,000	50,000
Construct general aviation airports	50,000	50,000
HIGHWAY COMMISSION		
(1) From the highway account for:		
Construct and improve material and equipment storage facilities, weigh stations and utilities	1,085,660	

Section 12. The following money is authorized for use from the Architecture and Engineering Construction Advance Account Revolving Fund for the following capital projects; providing the funds are available from the sources indicated in the joint resolution au-

HeinOnline -- 1971 vol. II 1800 1971

thorizing the capital project; and all expenditures of non-appropriated funds for the following capital projects authorized by the Forty-second Legislative Assembly shall be accounted for in the Architecture and Engineering fund:

	Earmarked Revenue Fund	Federal and Private Revenue Fund
MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY		
Pre-plan physical education building	$ 25,000	$
Pre-plan health center	10,000	
Construct petroleum and engineering science building	1,500,000	
MONTANA STATE UNIVERSITY		
Construct health and physical education building	1,565,000	
Construct stadium	750,000	
Construct running track	50,000	
NORTHERN MONTANA COLLEGE		
Renovate armory-gym	75,000	
Renovate Donaldson Hall	125,000	
UNIVERSITY OF MONTANA		
Renovate women's center	110,000	
Supplement renovation of health service building	85,000	
Supplement, addition, and renovation of field house	440,000	
Construct swimming pool	350,000	
WESTERN MONTANA COLLEGE		
Reroof married student apartments	15,000	
Pre-plan food service expansion	10,000	
CHILDREN'S CENTER		
Construct recreation center	69,675	

HeinOnline -- 1971 vol. II 1801 1971

Section 13. The following money is appropriated from the Architecture and Engineering Construction Advance Account Revolving Fund for the biennium ending June 30, 1973, for the following capital projects; providing the funds are available from the indicated accounts and funds:

	Bond Proceeds and Insurance Clearance Fund
HIGHWAY COMMISSION	
(1) From the highway complex account for:	
Highway commission headquarters building and complex	$7,710,442
EMPLOYMENT SECURITY COMMISSION	
(1) From the employment service buildings account for:	
Supplement employment service building, Helena	40,000
(2) From the employment security commission headquarter building account for:	
Construct employment security building addition	499,000

Approved March 31, 1971.

EXTRAORDINARY SESSION HOUSE BILL NO. 12

An Act Appropriating Twenty-Seven Thousand Dollars ($27,000) to the Department of Administration from the Capitol Building Program Account, Bond Proceeds and Insurance Clearance Fund for the Illumination of the Capitol Building.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated from the capitol building program account, bond proceeds and insurance clearance fund for the first year only of the biennium ending June 30, 1973, the sum of twenty-seven thousand dollars ($27,000) to the department of administration for the illumination of the exterior of the capitol building.

Approved March 31, 1971.

EXTRAORDINARY SESSION HOUSE BILL NO. 15

An Act to Appropriate Moneys for Payment of Employers Contribution to the Public Employees Retirement System for the Services of Members of the Legislative Assembly; Providing an Effective Date.

HeinOnline -- 1971 vol. II 1802 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated the sum of forty thousand dollars ($40,000) from the general fund to the public employees retirement system for payment of the employers contribution for the services of members of the legislative assembly.

Section 2. This act is effective on its passage and approval.

Approved March 29, 1971.

EXTRAORDINARY SESSION HOUSE BILL NO. 17

An Act Appropriating Money for the Operation of the Extraordinary Session of the Forty-Second Legislative Assembly; Specifying an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Two hundred thousand dollars ($200,000) is appropriated from the general fund for the operation of the extraordinary session of the forty-second legislative assembly.

Section 2. This act is effective on its passage and approval.

Approved March 25, 1971.

EXTRAORDINARY SESSION HOUSE BILL NO. 29

An Act to Appropriate Moneys from the General Fund for the Purchase or Lease and Installation of a New Sound System and Electronics Voting System for the House of Representatives.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated the sum of one hundred five thousand dollars ($105,000) from the general fund to the legislative council to be used for the purchase or lease and installation of a new sound system and electronic voting system in the House of Representatives.

Approved April 6, 1971.

HeinOnline -- 1971 vol. II 1803 1971

EXTRAORDINARY SESSION
HOUSE JOINT RESOLUTION NO. 1

A Joint Resolution of the Senate and House of Representatives Consenting to the Renovation of Donaldson Hall at Northern Montana College, Havre, Montana.

BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That pursuant to section 82-3316, R.C.M. 1947, the legislative assembly consents to and authorizes the renovation of Donaldson Hall, at Northern Montana College, Havre, Montana, to be financed in such manner as not to require legislative appropriation of moneys, from funds derived from gifts, grants, fees and earnings and from the issuance of bonds by the State Board of Education, ex officio Regents of the Montana University System, in an amount not to exceed one hundred twenty-five thousand dollars ($125,000), secured by the pledge of revenues from these sources in accordance with section 75-8504, R.C.M. 1947.

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state of Montana to the President of the Northern Montana Collesge, Havre, Montana.

Approved March 29, 1971.

EXTRAORDINARY SESSION
HOUSE JOINT RESOLUTION NO. 2

A Joint Resolution of the Senate and House of Representatives Consenting to the Renovation of the Armory Gym at Northern Montana College, Havre, Montana.

BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That pursuant to section 82-3316, R.C.M. 1947, the legislative assembly consents to and authorizes the renovation of the Armory Gym, at Northern Montana College, Havre, Montana, to be financed in such manner as not to require legislative appropriation of moneys, from funds derived from gifts, grants, fees and earnings and from the issuance of bonds by the State Board of Education, ex officio Regents of the Montana University System, in an amount not to exceed seventy-five thousand dollars ($75,000), secured by the pledge of revenues from these sources in accordance with section 75-8504, R.C.M. 1947.

HeinOnline -- 1971 vol. II 1804 1971

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state of Montana to the President of Northern Montana College, Havre, Montana.

Approved March 29, 1971.

EXTRAORDINARY SESSION
HOUSE JOINT RESOLUTION NO. 3

A Joint Resolution of the Senate and House of Representatives Consenting to the Construction of a Petroleum and Engineering Science Building at the Montana College of Mineral Science and Technology, Butte, Montana.

BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That pursuant to section 82-3316, R.C.M. 1947, the legislative assembly consents to and authorizes the construction of a petroleum and engineering science building at the Montana College of Mineral Science and Technology, Butte, Montana, to be financed in such manner as not to require legislative appropriation of moneys, from funds derived from gifts, grants, fees and earnings and from the issuance of bonds by the State Board of Education, ex officio regents of the Montana University System, in an amount not to exceed one million five hundred thousand dollars ($1,500,000) secured by the pledge of revenues from these sources in accordance with section 75-8504, R.C.M. 1947. No part of such funds shall be raised from student fees.

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state of Montana to the President of Montana College of Mineral Science and Technology, Butte, Montana.

Approved March 29, 1971.

EXTRAORDINARY SESSION
HOUSE JOINT RESOLUTION NO. 5

A Joint Resolution of the Senate and House of Representatives Consenting to Supplement the Construction of the Renovation of the Health Service Building at the University of Montana, Missoula, Montana.

HeinOnline -- 1971 vol. II 1805 1971

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That pursuant to section 82-3316, R.C.M. 1947, the legislative assembly consents to and authorizes the supplement of construction of the renovation of the Health Service Building, at the University of Montana, Missoula, Montana, to be financed in such manner as not to require legislative appropriation of moneys, from funds derived from gifts, grants, fees and earnings and from the issuance of bonds by the State Board of Education, ex officio regents of the Montana University System, in an amount not to exceed eighty-five thousand dollars ($85,000), secured by the pledge of revenues from these sources in accordance with section 75-8504, R.C.M. 1947, it being understood that neither a new student fee nor any increase in existing fees will be required hereby and that this project may be completely accomplished from funds already available and reserved for this purpose.

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state to the President of the University of Montana, Missoula, Montana.

Approved March 29, 1971.

EXTRAORDINARY SESSION
HOUSE JOINT RESOLUTION NO. 6

A Joint Resolution of the Senate and House of Representatives Consenting to the Construction of a Sports Complex at Fort Missoula, University of Montana, Missoula, Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That pursuant to section 82-3316, R.C.M. 1947, the legislative assembly consents to and authorizes the construction of a sports complex at Fort Missoula, University of Montana, Missoula, Montana to be financed in such a manner as not to require legislative appropriation of moneys or use of student fees; it being understood that the project is to be financed from gifts, grants and earnings from the issuance of bonds by the State Board of Education, ex officio Regents of the University System, in an amount not to exceed three million dollars ($3,000,000), secured by a pledge of revenues from the facilities and from these sources in accordance with section 75-8504, R.C.M. 1947.

HeinOnline -- 1971 vol. II 1806 1971

BE IT FURTHER RESOLVED, that a copy of this resolution be sent by the secretary of state to the President of the University of Montana, Missoula, Montana.

Approved March 29, 1971.

EXTRAORDINARY SESSION
HOUSE JOINT RESOLUTION NO. 7

A Joint Resolution of the Senate and House of Representatives Consenting to the Construction of a Swimming Pool at the University of Montana, Missoula, Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That pursuant to section 82-3316, R.C.M. 1947, the legislative assembly consents to and authorizes the construction of a swimming pool, at the University of Montana, Missoula, Montana, to be financed in such manner as not to require legislative appropriation of moneys, from funds derived from gifts, grants, and earnings and from the issuance of bonds by the State Board of Education, ex officio Regents of Montana University System, in an amount not to exceed three hundred fifty thousand dollars ($350,000), secured by the pledge of revenues from these sources in accordance with section 75-8504, R.C.M. 1947, it being understood that no student building fees will be involved in this project.

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state to the President of the University of Montana, Missoula, Montana.

Approved March 29, 1971.

EXTRAORDINARY SESSION
HOUSE JOINT RESOLUTION NO. 8

A Joint Resolution of the Senate and House of Representatives Consenting to Supplement the Construction of the Addition and Renovation of the Fieldhouse at the University of Montana, Missoula, Montana.

HeinOnline -- 1971 vol. II 1807 1971

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That pursuant to section 82-3316, R.C.M. 1947, the legislative assembly consents to and authorizes the supplement of the construction of the addition and renovation of the fieldhouse, at the University of Montana, Missoula, Montana, to be financed in such manner as not to require legislative appropriation of moneys, from funds derived from gifts, grants, fees and earnings and from the issuance of bonds by the State Board of Education, ex officio Regents of the Montana University System, in an amount not to exceed four hundred forty thousand dollars ($440,000), secured by the pledge of revenues from these sources in accordance with section 75-8504, R.C.M. 1947, it being understood that neither a new student fee nor any increase in existing fees will be required hereby and that this project may be completely accomplished from funds already available and reserved for this purpose or from receipts from already existing fees during the period of construction.

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state to the President of the University of Montana, Missoula, Montana.

Approved March 29, 1971.

EXTRAORDINARY SESSION
JOINT HOUSE RESOLUTION NO. 9

A Joint Resolution of the Senate and House of Representatives Consenting to the Renovation of the Women's Center at the University of Montana, Missoula, Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That pursuant to section 82-3316, R.C.M. 1947, the legislative assembly consents to and authorizes the renovation of the Women's Center, at the University of Montana, Missoula, Montana, to be financed in such manner as not to require legislative appropriation of moneys, from funds derived from gifts, grants, fees and earnings and from the issuance of bonds by the State Board of Education, ex officio Regents of the Montana University System, in an amount not to exceed one hundred ten thousand dollars ($110,000), secured by the pledge of revenues from these sources in accordance with

HeinOnline -- 1971 vol. II 1808 1971

section 75-8504, R.C.M. 1947, from gifts, grants, and fees in an amount not to exceed one hundred ten thousand dollars ($110,000), it being understood that a minimum of eighty-one thousand five hundred eighty-four dollars ($81,584), thereof will come from a grant from the Division of Vocational Rehabilitation and that the portion of the balance to come from student fees will not require any new fee nor any increase in existing fees, but will come from existing reserves available for this purpose.

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state to the President of the University of Montana, Missoula, Montana.

Approved March 29, 1971.

EXTRAORDINARY SESSION
HOUSE JOINT RESOLUTION NO. 11

A Joint Resolution of the Senate and House of Representatives Consenting to the Construction of an Environmental Research Center at Montana College of Mineral Science and Technology, Butte, Montana.

WHEREAS, section 82-3316, R.C.M. 1947, requires the legislative assembly to approve certain appropriation of money for construction of buildings.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That pursuant to section 82-3316, R.C.M. 1947, the legislative assembly consents to and authorizes the Montana College of Mineral Science and Technology to construct an environmental research center to be financed from moneys appropriated to the college from the long-range building program, bond proceeds and insurance account in 1969. The construction not to exceed fifty thousand dollars ($50,000) will not require any further legislative appropriation of moneys.

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of state to the President of the Montana College of Mineral Science and Technology, Butte, Montana.

Approved April 6, 1971.

HeinOnline -- 1971 vol. II 1809 1971

EXTRAORDINARY SESSION
HOUSE JOINT RESOLUTION NO. 12

A Joint Resolution of the House of Representatives and Senate of the State of Montana Consenting to the Planning and Construction of a Physical Education Complex at Montana College of Mineral Science and Technology, Butte, Montana.

BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That pursuant to section 82-3316, R.C.M. 1947, the legislative assembly consents to and authorizes the planning and construction of a physical education complex at Montana College of Mineral Science and Technology, Butte, Montana, to be financed in such manner as not to require legislative appropriation of moneys, from funds derived from gifts, grants, fees and earnings and from the issuance of bonds by the state Board of Education, ex officio regents of the Montana University System, in an amount not to exceed two million two hundred fifty thousand dollars ($2,250,000), secured by the pledge of revenues from these sources in accordance with section 75-8504, R.C.M. 1947. No part of such funds shall be raised from student fees unless the matter has first been submitted to the students for a vote of the student body and a majority of the students voting favor the proposal.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent by the secretary of state to the President of Montana College of Mineral Science and Technology, Butte, Montana.

Approved April 6, 1971.

EXTRAORDINARY SESSION
SENATE JOINT RESOLUTION NO. 1

A Joint Resolution of the Senate and House of Representatives Ratifying the Proposed Amendment to the Constitution of the United States Relating to the Right to Vote at Eighteen Years of Age.

WHEREAS, the ninety-second congress of the United States of America at its first session, in both houses, by a constitutional majority of two-thirds (2/3) thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words:

HeinOnline -- 1971 vol. II 1810 1971

"JOINT RESOLUTION

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the Legislatures of three-fourth of the several States within seven years from the date of its submission by the Congress:

ARTICLE

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2. The Congress shall have the power to enforce this article by appropriate legislation."

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the proposed amendment to the Constitution of the United States of America be and the same is hereby ratified;

BE IT FURTHER RESOLVED, that certified copies of this Resolution be forwarded by the secretary of state to the administrator of general services, Washington, D. C., and the president of the senate and the speaker of the house of representatives of the congress of the United States.

Approved March 31, 1971.

HeinOnline -- 1971 vol. II 1811 1971

HeinOnline -- 1971 vol. II 1812 1971

SECOND EXTRAORDINARY SESSION

☆

June 7, 1971 to June 25, 1971

HeinOnline -- 1971 vol. II 1813 1971

HeinOnline -- 1971 vol. II 1814 1971

CHAPTER NO. 1

An Act Allowing the Investment of Moneys Belonging to the Public School Permanent Fund and its Other Permanent Funds of the Education, Charitable and Penal Institutions of the State, and all Permanent Funds Subject to the Administration of the Board Under Article XXI of the State Constitution, to be Invested in Bonds Which are Fully Guaranteed by the United States as to Principal and Interest by Amending Section 81-1001, R.C.M. 1947; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 81-1001, R.C.M. 1947, is amended to read as follows: Amending clause.

"81-1001. **Investment of permanent funds.** All moneys belonging to the public school permanent fund and to the other permanent funds of the educational, charitable and penal institutions of the state, and all permanent funds subject to the administration of the board under article XXI of the state constitution, shall be carried by the state treasurer as subfunds in the trust and legacy fund, and shall be safely invested by the state board of land commissioners in bonds of school districts within the state of Montana; in bonds of the several counties and cities of the state of Montana; in bonds of the state of Montana or of the United States; *bonds fully guaranteed by the United States as to principal and interest;* in capitol building bonds of the state of Montana, now issued or which may hereafter be issued; in bonds issued by the federal land banks, in interest-bearing warrants upon the general fund of the state and in interest-bearing warrants upon the general fund, the poor fund, the road fund, or upon the bridge fund of the several counties of the state of Montana; all of such investments to be subject to the regulations and limitations of this act." Investment of permanent funds.

Section 2. This act is effective on its passage and approval. Effective date.

Approved June 15, 1971.

HeinOnline -- 1971 vol. II 1815 1971

CHAPTER NO. 2

An Act to Provide for the Control of Outdoor Advertising Adjacent to Interstate and Primary Highway Systems in Compliance with the Highway Beautification Act of 1965; Repealing Sections 32-4701 Through 32-4714, R.C.M. 1947, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Policy clause.

Section 1. (a) The legislature finds and declares that in order to promote the safety, convenience and enjoyment of travel on, and protection of the public investment in highways within this state, and to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas, it shall be the policy of this state that the erection and maintenance of outdoor advertising in areas adjacent to the right-of-way of the interstate and primary systems within this state shall be regulated in accordance with the terms of this act and the rules and regulations promulgated by the commission, pursuant thereto. It is the intention of the legislature in this act to provide a statutory basis for regulation of outdoor advertising consistent with the public policy relating to areas adjacent to the interstate and primary systems declared by congress in title 23, United States code, "highways."

Intent of legislature.

"Outdoor advertising act."

(b) This act may be cited as the "Outdoor Advertising Act."

"Interstate system."

Section 2. As used in this act: (a) "Interstate system" means that portion of the national system of interstate and defense highways located within this state, as officially designated, or as may hereafter be so designated by the commission and approved by the secretary pursuant to the provisions of title 23, United States code, "highways."

"Primary system."

(b) "Primary system" means that portion of connected main highways, as officially designated or as may hereafter be so designated by the commission and approved by the secretary pursuant to the provisions of title 23 United States code, "highways."

"Outdoor advertising."

(c) "Outdoor advertising" means any outdoor sign, display, light, device, figure, painting, drawing, mes-

HeinOnline -- 1971 vol. II 1816 1971

sage, plaque, poster, billboard, or other structure which is designed, intended or used to advertise or inform and which is visible from any place on the main traveled way of the interstate or primary systems

(d) "Commission" means the state highway commission of Montana. "Commission."

(e) "Secretary" means the secretary of the United States department of transportation. "Secretary."

(f) "Safety rest area" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control, for the convenience of the traveling public. "Safety rest area."

(g) "Information center" means an area or site established or maintained at safety rest areas for the purpose of informing the public of places of interest within the state and providing such other information as the commission may consider desirable. Information center."

(h) "Visible" means capable of being seen, and legible, without visual aid by a person of normal visual acuity. "Visible."

(i) "Commercial or industrial zone" means an area which is used or reserved for business, commerce, or trade pursuant to comprehensive local zoning ordinances or regulations, or enabling state legislation, or state legislation itself, including highway service areas lawfully zoned as highway service zones where the primary use of the land is used or reserved for commercial and roadside services, other than outdoor advertising, to serve the traveling public. "Commercial or industrial zone."

(j) "Unzoned commercial or industrial area" means an area not zoned by state or local law, regulation or ordinance which is occupied by one or more industrial or commercial activities, other than outdoor advertising, on the lands along the highway for a distance of six hundred (600) feet immediately adjacent to the activities, and those lands directly opposite on the other side of the highway to the extent of the same dimensions; provided, those lands on the opposite side of the highway are not deemed scenic or having aesthetic value as determined by the commission. "Unzoned commercial or industrial area."

HeinOnline -- 1971 vol. II 1817 1971

"Commercial or industrial activities."

(k) "Commercial or industrial activities" means for purposes of subsection (j) those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(i) Agricultural, forestry, grazing, farming and related activities including wayside fresh produce stands.

(ii) Transient or temporary activities.

(iii) Activities not visible from the main traveled way.

(iv) Activities conducted in a building principally used as a residence.

(v) Railroad tracks and minor sidings.

(vi) Activities more than six hundred and sixty (660) feet from the nearest edge of the right-of-way.

"Maintain."

(l) "Maintain" means to allow to exist, subject to the provisions of this act.

"Maintenance."

(m) "Maintenance" means to repair, refurbish, repaint or otherwise keep an existing sign structure in a state suitable for use.

"Interchange or intersection."

(n) "Interchange" or "intersection" means those areas and their approach where traffic is channeled off or onto an interstate route including the de-acceleration lanes or acceleration lanes from or to another federal, state, county, city, or other route.

Limitation of outdoor advertising —660 feet.

Section 3. (a) No outdoor advertising shall be erected or maintained which is within six hundred and sixty (660) feet of the nearest edge of the right-of-way and which is visible from any place on the main traveled way, of an interstate or primary system, except:

Exceptions.

(i) Directional and other official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, as authorized or required by law.

(ii) Signs, displays and devices advertising the sale or lease of property upon which they are located.

HeinOnline -- 1971 vol. II 1818 1971

(iii) Signs, displays and devices advertising activities conducted on the property upon which they are located

(iv) Signs, displays and devices located in areas which are zoned industrial or commercial by a bona fide state, county or local zoning authority.

(v) Signs, displays and devices located in unzoned commercial or industrial areas, which areas shall be determined from actual land uses and by agreement between the commission and the secretary and defined by regulations promulgated by the commission. The exception granted by this subsection shall not apply to signs, displays and devices located within an unzoned area in which the commercial or industrial activity used in defining the area has ceased for a period of nine (9) months.

(b) Outdoor advertising authorized under subsections (i), (iv), and (v) of subsection (a) of this section shall conform with standards contained in, and shall bear permits required in, regulations which are promulgated by the commission and this act.

Section 4. The commission is hereby authorized to make and promulgate regulations to control the erection and maintenance of outdoor advertising along the interstate and primary highway systems in conformance with the terms of this act and in conformity with section 131 of title 23, United States code, as amended. Regulations.

Section 5. Signs permitted under Section 3 (a) (i), (ii), (iii), (iv), and (v) shall conform to the following requirements: Sign requirements.

(a) Signs shall not be erected or maintained which exceed 1,200 square feet in area including border and trim, but excluding base or apron, supports, and other structural members. Area.

(b) Maximum length—60 feet. Length.

(c) Maximum height—40 feet, as measured from the ground or, if the sign is attached to a structure, as measured from the base of the sign itself. Height.

(d) No more than two facings visible and readable from the same direction on the main traveled way may Facings.

HeinOnline -- 1971 vol. II 1819 1971

be erected on any one sign structure. Whenever two facings are so positioned, neither shall exceed 325 square feet.

Multiple facing.

(e) Double-faced, back-to-back and V-type signs shall be considered as a single sign or structure.

Spacing.

(f) No two signs shall be spaced less than five hundred (500) feet apart adjacent to an interstate highway, or limited access primary highway except that signs may be erected closer than five hundred (500) feet if they are separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the highway at any one time.

Distance from facilities.

(g) Signs may not be located within five hundred (500) feet of any of the following which are adjacent to the highway; unless such signs are in an incorporated area:

(i) Public parks.

(ii) Public forests.

(iii) Public playgrounds.

(iv) Scenic areas designated as such by the state highway department or other state agency having and exercising such authority.

(v) Cemeteries.

Interstate—interchange—distance.

(h) No sign may be located on an interstate highway or freeway within five hundred (500) feet of an interchange, or intersection at grade, or rest area. Said five hundred (500) feet is to be measured along the interstate or freeway from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way.

Illumination.

(i) Signs may be illuminated, subject to the following restrictions:

(i) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather or similar information.

HeinOnline -- 1971 vol. II 1820 1971

(ii) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the interstate or federal-aid primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(iii) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

Primary highway—intersection—spacing.

(j) The location of sign structure situated on the primary highways between streets, roads or highways entering or intersecting the main traveled way shall conform to the following minimum spacing criteria:

(i) Where the distance between centerlines of intersecting streets or highways is less than one thousand (1,000) feet, a minimum spacing between structures of one hundred fifty (150) feet may be permitted between the intersecting streets or highways.

(ii) Where the distance between centerlines of intersecting streets or highways is one thousand (1,000) feet or more, minimum spacing between sign structures shall be three hundred (300) feet.

Permits.

Section 6. Within ninety (90) days after the effective date of this act, no signs authorized by subsections (i), (iv), and (v) of subsection (a) of section 3 may be constructed or maintained without a permit. Applications for permits shall be made to the commission on forms furnished by it. The commission shall require reasonable information to be furnished, including a statement that the owner or occupant of the land has consented to the erection or maintenance of the sign or signs thereon. A permit must be obtained for each sign and the application for the permit must be accompanied by an initial fee of six dollars ($6).

Fees.

Permits shall be issued for three (3) years, assigned a permit number, and renewed every three (3) years thereafter upon payment of three dollars ($3) without the filing of a new application. All fees received shall be paid into the state highway account in the earmarked revenue fund.

HeinOnline -- 1971 vol. II 1821 1971

Identification tags.

The commission shall issue with each new permit a permanent identification tag not larger than six (6) square inches which shall be affixed to the sign in a position readily visible from the highway.

Notwithstanding the foregoing provisions of this section, the commission shall issue permits and identifications tags, upon application and payment of the requisite fee for any structure lawfully in existence on the day prior to the effective date of this act, and the permits shall thereafter be renewed for such period of time as is prescribed herein, unless the structure is removed for improper maintenance.

Violation—remedial action.

Section 7. When the commission determines that a willful false or misleading statement has been made in the application for a permit or that the structure for which a permit was issued is not in a reasonable state of repair, or is unsafe, the commission shall notify the holder of the permit in writing, either by certified mail or by personal service, of the violation and specify that remedial action shall be taken within sixty (60) days or the permit will be revoked and action for removal of the sign commenced as provided in section 8 of this act. No notice is required prior to filing a complaint after the notice period has lapsed.

Unlawful advertising.

Section 8. (a) The following outdoor advertising is deemed unlawful:

(i) When erected after the effective date of this act contrary to the provisions of this act; or

(ii) When a permit is not obtained as prescribed in this act; or

(iii) When a permittee fails to comply with a notice of violation as provided in section 7 of this act.

Notice.

(b) The commission shall give notice in writing, either by certified mail or by personal service, to the owner or occupant of the land on which advertising believed to be unlawful is located and the owner of the outdoor advertising structure, if the latter is known, or if unknown, by posting notice in a conspicuous place on said structure, of its intention to remove the advertising deemed unlawful. Within forty five (45) days after the notice, the owner of the land or of the structure

HeinOnline -- 1971 vol. II 1822 1971

may make written request for a hearing before the commission to show cause why the structure should not be removed. The commission shall keep a full and complete transcript and record of such hearing, make and enter its findings, conclusions and decisions in the matter and mail copies thereof by certified mail to the party or parties requesting the hearing.

Appeal procedure.

The decision of the commission may be appealed to the district court in the county in which the structure is located. The court shall sustain the decision of the commission if it is supported by substantial evidence as shown by the records and exhibits. If there is no appeal from the commission's decision or if the commission's decision is affirmed, the party or parties requesting the appeal shall be liable for all costs incurred by the commission. Appeals shall be taken within thirty (30) days of the commission's decision by filing a notice and sending a copy of the notice to the commission by certified mail.

The commission shall forward its transcripts, records and exhibits to the district court having jurisdiction within thirty (30) days after receiving notice of such appeal. Appellant shall pay all costs of transcript and records.

If a hearing before the commission is not requested, or if there is no appeal taken from the commission's decision at such hearing, or if the commission's decision is affirmed on appeal, the commission shall immediately remove the unlawful outdoor advertising. The owner of the structure and the owner or occupant of the land shall be jointly and severally liable for the costs of such removal. The commission shall incur no liability for causing this removal, except for damage caused by negligence of the commission, its agents or employees.

Acquisition of outdoor advertising.

Section 9. (a) The commission is hereby empowered and authorized to acquire by gift, purchase, agreement, exchange or eminent domain, any existing outdoor advertising and all property rights pertaining to same which were lawfully in existence on the effective date of this act, and which by reason of this act become non-conforming. Eminent domain shall be exercised in accordance with the provisions of the laws of the state of Montana.

HeinOnline -- 1971 vol. II 1823 1971

Compensation.

(b) Just compensation shall be paid for outdoor advertising and all property rights pertaining to the same acquired through the process of eminent domain. The commission is empowered to remove outdoor advertising found in violation of section 7 or 8 of this act without payment of compensation.

(c) Despite any contrary provision in this act, no sign shall be required to be removed without just compensation, unless found to be in violation of section 7 or 8 of this act. Except as provided in said sections 7 and 8 no sign shall be required to be removed unless at the time of removal or discontinuance there are sufficient funds, from whatever source, appropriated and immediately available to pay the just compensation required under this section, and unless at such time the federal funds required to be contributed under section 131 (g) of title 23, United States code, with respect to the outdoor advertising being removed, have been apportioned and are immediately available to this state.

Agreement regarding outdoor advertising.

Section 10. The highway commission of the state of Montana is authorized to enter into an agreement with the secretary regarding the size, lighting and spacing of outdoor advertising, as provided in this act, which may be erected and maintained within the areas adjacent to the interstate and primary highway system which are zoned commercial, industrial, or in such other unzoned commercial or industrial areas as may be determined by agreement, and as provided in this act.

Affect on ordinance.

Section 11. Nothing in this act shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution, which is more restrictive than the provisions of this act.

Change in United States code.

Section 12. In the event the general requirements of title 23, United States code, "highways," or existing rules and regulations of the United States department of transportation become amended or changed to less restrictive conditions than presently exist, then, the commission must amend or change such rules and regulations that it may have adopted to come into conformity with the federal law, rule and regulation; however, in no event shall this act become more restrictive than is indicated herein by said federal action.

HeinOnline -- 1971 vol. II 1824 1971

Section 13. Outdoor advertising contracted for prior to the enactment of this act and which under the provisions of the act becomes non-conforming shall not be regulated as such until January 1, 1972. **Contracts prior to act.**

Section 14. If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act shall not be affected thereby. **Saving clause.**

Section 15. Any person violating any provision of this act is guilty of a misdemeanor. **Penalty.**

Section 16. All outdoor advertising which does not conform to the requirements of this act are public nuisances. **Public nuisance.**

Section 17. Sections 32-4701 through Section 32-4714, R.C.M. 1947, are hereby repealed. **Repealing clause.**

Section 18. This act is effective on passage and approval. **Effective date.**

Approved June 24, 1971.

CHAPTER NO. 3.

An Act to Provide for Relocation Assistance to Persons Displaced as a Result of Acquisition of Land for Federally Assisted Programs and to Provide for Acquisition Practices.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is the purpose of this act to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms as a result of federally assisted programs, to establish uniform and equitable land acquisition policies for federally assisted programs and to comply with the federal "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970." **Purpose clause.**

Section 2. As used in this act, unless the context otherwise requires:

(1) "Agency" means the state of Montana, a political **"Agency."**

HeinOnline -- 1971 vol. II 1825 1971

subdivision of the state or any department, agency or instrumentality of the state of Montana or of a political subdivision of the state.

"Average annual net earnings."

(2) "Average annual net earnings" means one-half (½) of any net earnings of a business or farm operation, before federal and state income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from real property acquired for a project of an agency (for which federal financial assistance is available to pay all or any part of the cost) or during such other period as the acquiring agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

"Business."

(3) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(a) for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(b) for the sale of services to the public;

(c) by a nonprofit organization; or

(d) solely for the purposes of section 3 (1) of this act, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

"Displaced person."

(4) "Displaced person" means any person who, on or after the effective date of this act, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of an acquiring agency to vacate real property, for a program or project undertaken by the agency, for which federal financial assistance will be available to pay all or any part of the cost; and solely for the purposes of section 3 (1) and (2) and section 6 of this act, as a

HeinOnline -- 1971 vol. II 1826 1971

result of the acquisition of, or as the result of the written order of, the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project. The term "displaced person" also includes a person who moves or discontinues his business or moves other personal property, or moves from his dwelling as the direct result of code enforcement activities, or a program of rehabilitation of buildings conducted pursuant to a federal program.

"Federal act."

(5) "Federal act" means the "Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970" or as that act may be amended.

"Federal financial assistance."

(6) "Federal financial assistance" means a grant, loan, or contribution provided by the United States except any federal guarantee or insurance.

"Farm operation."

(7) "Farm operation" means any activity conducted solely or primarily for the production of one (1) or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

"Person."

(8) "Person" means any individual, partnership, corporation or association.

Payment for displacement.

Section 3. (1) Whenever the acquisition of real property for a program or project of an agency (for which federal financial assistance is available to pay all or any part of the cost) will result in the displacement of any person, the agency shall make payment to the displaced person, upon application as approved by the agency, for:

(a) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(b) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the agency; and

(c) actual reasonable expenses in searching for a replacement business or farm.

HeinOnline -- 1971 vol. II 1827 1971

Moving expense allowance.

(2) In lieu of payments for actual expenses and losses under subsection (1) of this section a person who is displaced from a dwelling may elect to receive a moving expense allowance determined according to a schedule established by the agency and a dislocation allowance, neither of which may exceed the maximum allowances under section 202 (b) of the federal act.

Fixed payment.

(3) In lieu of payments for actual expenses and losses under subsection (1) of this section a person who is displaced from his place of business or from his farm operation may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation provided that:

Limitation.

(a) the payment shall not be less nor more than the amounts set forth in section 202 (c) of the federal act;

Business.

(b) in the case of a business no payment shall be made under this subsection unless the acquiring agency is satisfied that the business cannot be relocated without a substantial loss of its existing patronage and is not a part of a commercial enterprise having at least one (1) other establishment not being acquired by an agency, which is engaged in the same or similar business.

Displacement from dwelling—not less than 180 days prior to acquisition.

Section 4. (1) In addition to payments otherwise authorized by this act, the acquiring agency shall make an additional payment to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty (180) days prior to the initiation of negotiations for the acquisition of the property. The additional payment shall include the following elements:

Additional payment —elements.

(a) the amount may not exceed the amount allowed under section 203 of the federal act,

(b) the amount, if any, which when added to the acquisition cost of the dwelling acquired by the agency, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subsection (b) shall be made in accordance with regulations issued by the acquiring agency.

HeinOnline -- 1971 vol. II 1828 1971

(c) the amount, if any, which will compensate the displaced person for any increased interest costs which the person is required to pay for financing the acquisition of any comparable replacement dwelling. The amount shall be paid only if the dwelling acquired by the agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty (180) days prior to the initiation of negotiations for the acquisition of the dwelling. The amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(d) reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one (1) year period beginning on the date on which he received from the agency final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

Displacement from dwelling—not less than 90 days prior to acquisition.

Section 5. In addition to amounts otherwise authorized by this act the acquiring agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 4 of this act if the dwelling was actually and lawfully occupied by the displaced person for not less than ninety (90) days prior to the initiation of negotiations for acquisition of such dwelling. The payment shall be either:

(1) the amount necessary to enable the displaced person to lease or rent for a period not to exceed four (4) years, a decent, safe, and sanitary dwelling of standards

HeinOnline -- 1971 vol. II 1829 1971

adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed the amount allowable under section 204 of the federal act; or

(2) the amount necessary to enable such person to make a down payment (including reasonable expenses for evidence of title, recording fees, and other closing costs incident to the purchase of a dwelling, but not including prepaid expenses) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities. The amount payable under this subsection (2) shall not exceed the amount allowable under section 204 of the federal act and shall be subject to the same matching requirements as under said section.

Section 6. (1) Whenever the acquisition of real property for a program or project of an agency (for which federal financial assistance is available to pay all or any part of the cost) will result in the displacement of any person, the agency shall provide a relocation assistance advisory program for displaced persons which offers the services described in this section. If the acquiring agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services.

Relocation assistance advisory program.

(2) The relocation advisory service may include such budget, debt management and related counseling services as the acquiring agency determines will assist the displaced person. The relocation assistance program shall include such measures, facilities, or services as may be necessary or appropriate in order to:

Services.

(a) determine the need, if any, of displaced persons, for relocation assistance;

(b) provide current and continuing information on the availability, prices, and rentals of comparable decent, safe, and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

HeinOnline -- 1971 vol. II 1830 1971

(c) assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(d) supply information concerning federal and state housing programs, disaster loan programs and other federal or state programs offering assistance to displaced persons; and

(e) provide other advisory services to displaced persons in order to minimize hardships to displaced persons in adjusting to relocation;

(f) secure the coordination of relocation activities with other project activities and other planned or proposed federal or state actions in the community or nearby areas which may affect the relocation program.

Contracts for assistance.

(3) In order to prevent unnecessary expenses and duplication of functions and to promote uniform and effective administration of relocation assistance programs, an agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this act through any federal or state agency having an established organization for conducting relocation assistance programs. Each agency whenever practicable, shall utilize the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

Dwellings for displaced persons.

Section 7. Whenever the acquisition of real property for a program or project of an agency (for which federal financial assistance is available to pay all or any part of the cost) will result in the displacement of any person, the agency shall assure that, within a reasonable period of time, prior to displacement there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as defined by the federal agency concerned with administering the federal financial assistance, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment.

HeinOnline -- 1971 vol. II 1831 1971

Project cost.

Section 8. The acquiring agency shall include the cost of providing payments and assistance under the provisions of this act in the cost of any project for which federal financial assistance is available to pay all or any part of the cost. The acquiring agency shall also provide the payments and assistance and assure the availability of replacement housing for displaced persons, who are displaced as a result of real property being acquired by an agency and furnished as a required contribution incident to a federal program or project.

Section 9. No payment received by a displaced person under this act shall be considered as income or resources for the purpose of determining the eligibility of any person for assistance under any state law or for the purposes of determining income under state tax laws.

Judicial review.

Section 10. Any person aggrieved by final administrative determination concerning eligibility for relocation payments authorized by this act may appeal such determination to the district court of the county in which the land acquired is located.

Policies of agencies involved.

Section 11. An agency which acquires real property for a program or project for which federal financial assistance will be available to pay all or any part of the cost of such program or project shall comply with the following policies:

(1) The agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(3) Before the initiation of negotiations for real property, an amount shall be established which it is reasonably believed is just compensation therefor and such amount shall be offered for the property. In no event shall such amount be less than the approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for

HeinOnline -- 1971 vol. II 1832 1971

such improvement, other than that due to physical deterioration within the reasonable control of the owner, shall be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or before there is deposited with the court, in accordance with applicable law, for the benefit of the owner, an amount not less than the approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding of such property.

(5) The construction or development of a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least ninety (90) days written notice of the date by which such move is required.

(6) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the acquiring agency on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the time of condemnation be advanced, or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other action coercive in nature be taken to compel an agreement on the price to be paid for the property.

(8) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring

HeinOnline -- 1971 vol. II 1833 1971

agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the entire property shall be made.

Deposit of money into court.

Section 12. Any agency acquiring real property for a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project shall, as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner, to the extent the acquiring agency deems fair and reasonable, for expenses he necessarily incurred for recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the acquiring agency; penalty costs for prepayment for any preexisting recorded mortgage or deed of trust entered into in good faith encumbering such real property; and the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of such real property by the acquiring agency, whichever is the earlier.

Award of costs incurred by condemnation proceedings.

Section 13. Where a condemnation proceeding is instituted by an agency to acquire real property for a program or project for which federal financial assistance is available, and the final judgment is that the real property cannot be acquired by condemnation or that the proceeding is abandoned, the owner of any right, title, or interest in such real property shall be paid such sum as will, in the opinion of the court, reimburse such owner for his reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings. The award of such sums will be paid by the agency which sought to condemn the property.

Inverse condemnation proceedings.

Section 14. Where an inverse condemnation proceeding is instituted by the owner of any right, title, or interest in real property because of the alleged taking of his property for any program or project for which federal financial assistance will be available to pay all or any

HeinOnline -- 1971 vol. II 1834 1971

part of the cost of the program or project, the court, rendering a judgment for the plaintiff in such proceeding and awarding compensation for the taking of property, or attorney for the acquiring agency effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will, in the opinion of the court or such attorney, reimburse such plaintiff for his reasonable costs, disbursements, and expenses including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

Determination of compensation.

Section 15. (1) Where any interest in real property is acquired for a program or project for which federal assistance will be available to pay all or any part of the cost of the program or project, the acquiring agency shall acquire an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which are required to be removed from such real property or which the acquiring agency determines will be adversely affected by the use to which such real property will be put.

(2) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (1) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

Payment for such buildings, structures, or improvements as set forth in this subsection (2) shall not result in duplication of any payments otherwise authorized by state law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment the tenant shall assign, transfer, and release

HeinOnline -- 1971 vol. II 1835 1971

all his right, title, and interest in and to such improvements. Nothing in this subsection (2) shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for such property interests in accordance with other laws of the state.

Eminent domain awards.

Section 16. No payment or assistance provided for in this act shall be required to be made by an agency if the displaced person receives a payment required by the laws of eminent domain which is determined by the agency to have substantially the same purpose and effect as such payment under this act.

Clarifying clause.

Section 17. (1) The provisions of section 7 of this act create no rights or liabilities and shall not affect the validity of any property acquisition by purchase or condemnation.

(2) Nothing in this act shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of value or damage not in existence immediately prior to the effective date of this act.

(3) Nothing in this act shall be construed as, directly or indirectly, granting any new or additional power of eminent domain.

Act not to apply—when.

Section 18. This act shall apply to all acquisitions of real property by an agency for a program or project for which federal financial assistance is available to pay all or any part of the cost.

Approved June 25, 1971.

CHAPTER NO. 4

An Act to Fix Salaries for the District Court Judges; Amending Section 93-303, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 93-303, R.C.M. 1947, is amended to read as follows:

Salaries of district judges.

"93-303. **Salaries of district judges.** The annual salary of each district judge shall be *twenty thousand five hundred dollars ($20,500), beginning July 1, 1971.*"

Approved June 29, 1971.

HeinOnline -- 1971 vol. II 1836 1971

CHAPTER NO. 5.

An Act Amending Section 16-1904, R.C.M. 1947, to Allow County Commissioners to Transfer Excess Funds; Repealing Section 16-2048, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-1904, R.C.M. 1947, is amended to read as follows:

Amending clause.

"16-1904. **Hearings on budget—adoption—fixing tax levies.** (1) On the Wednesday immediately preceding the second Monday in August the county commissioners shall meet at the time and place designated in the notice provided for in section 16-1903, at which time any taxpayer may appear and be heard for or against any part of such budget. Such hearing shall be continued from day to day and shall be concluded and terminated and the budget finally approved and adopted on the second Monday in August and before the fixing of the tax levies by such board.

Hearings on budget —adoption—fixing tax levies.

(2) Upon the conclusion of such hearing the board shall first determine and fix the amount which it is estimated will accrue to each fund during the fiscal year from all sources, except the taxation of property, but in so doing the board shall not include any amount which it is anticipated may be received during the fiscal year from the payment of taxes which became delinquent during any preceding fiscal year, or years. The board shall then determine and fix separately the amount appropriated for and authorized to be expended for each item in the budget and shall specify the fund or funds against which warrants are to be drawn and issued for each item in the budget and shall specify the fund or funds against which warrants are to be drawn and issued for the expenditures so authorized; provided that there shall not be added to the amount to be appropriated and authorized to be expended for any item, or to the total amount appropriated and authorized to be expended from any fund any amount or percentage whatever because of any anticipated loss of revenue by reason of the nonpayment of taxes levied for such fiscal year; and provided further that the amount appropriated and authorized to be expended for any item contained in such

HeinOnline -- 1971 vol. II 1837 1971

budget, except for salaries which must not exceed by more than ten per centum (10%) the amount appropriated and authorized for such item under the appropriation contained in the budget approved and adopted for the fiscal year immediately preceding and except for capital outlay, election expenses, expenditures from county poor funds, and payment of emergency warrants and interest thereof, must not exceed by more than five per centum (5%) the amount appropriated and authorized for such item under the appropriation contained in the budget approved and adopted for the fiscal year immediately preceding, and the total amount appropriated and authorized to be expended from any fund, except for capital outlay, election expenses and payment of emergency warrants and interest thereon, shall not exceed by more than five per centum (5%) the total amount appropriated and authorized for all purposes, except for salaries which must not exceed ten per centum (10%) the amount appropriated and authorized from such fund under the appropriation made from such fund in the budget adopted for the fiscal year immediately preceding and except for capital outlay, election expenses, expenditures from county poor funds, and payment of emergency warrants, from such fund under the appropriation made from such fund in the budget approved and adopted for the fiscal year immediately preceding, provided further that the foregoing limitations shall not apply to appropriations and expenditures authorized to be made from the county poor fund for payment of bonds and emergency warrants and interest thereon; and provided further that the total expenditures authorized to be made from any fund, including reserve added thereto as hereinafter provided, shall not, in any event, exceed the aggregate of the cash balance in such fund at the close of the fiscal year immediately preceding, the amount of estimated revenues to accrue to such funds, as determined and fixed in the manner herein provided, and the amount which may be raised for such fund by a lawful tax levy during the fiscal year.

(3) The board shall then determine and fix the amount to be raised for each fund by tax levy by adding together the cash balance in the fund at the close of the fiscal year immediately preceding and the amount of the estimated revenues, if any to accrue thereto during the cur-

HeinOnline -- 1971 vol. II 1838 1971

rent fiscal year, as before ascertained and determined, and then deducting the total amount so obtained from the total amount of the appropriations and authorized expenditures from the fund as determined and fixed by said board, the amount remaining being the amount necessary to be raised for the fund by tax levy during the current fiscal year; provided that the board may add to the amount so found necessary to be raised for any fund by tax levy during the current fiscal year, an additional amount as a reserve to meet and care for expenditures to be made from such fund during the months of July to November, inclusive, of the next ensuing fiscal year under the annual budget to be thereafter adopted for such next ensuing fiscal year, but the amount which may be so added to any fund, as such reserve for such purpose, shall not exceed one-third of the total amount appropriated and authorized to be expended from such fund during the current fiscal year, after deducting from the amount of such appropriations and authorized expenditures the total amount, if any, therein appropriated and authorized to be expended for election expenses and payment of emergency warrants; provided further that the total amount, to be raised by tax levy for any fund, during such current fiscal year, including the amount of such reserve and any amount for payment of election expenses and emergency warrants, must not exceed the total amount which may be raised for such fund by a tax levy which does not exceed the maximum levy permitted by law to be made for such fund.

Transfer of funds.

If the cash balance remaining in any of the several county funds, except the school fund, at the end of a fiscal year, exceeds the amount to be budgeted to that fund, such excess may be transferred to other funds as the county commissioners deem for the best interest of the county after a public hearing. Notice of said hearing must be given not less than thirty (30) days prior to said hearing by publication in a newspaper of general circulation in the county and by posting in five (5) public places. Said notice must state the date, time and place of said hearing and state generally the purpose and proposed use of said funds.

(4) The budget as finally determined, in addition to setting out separately each item for which any appropriation or expenditure is authorized and the fund out of

HeinOnline -- 1971 vol. II 1839 1971

which the same is to be paid, shall set out the total amount appropriated and authorized to be expended from each fund, the cash balance in the fund at the close of the last preceding fiscal year, the amount, if any, which it is estimated will accrue to the fund from sources other than taxation, the reserve, if any, for the next ensuing fiscal year, and the amount necessary to be raised for each fund by tax levy during the current fiscal year. The board shall then by resolution approve and adopt the budget as so finally determined and enter the same at length and in detail in the official minutes of the board.

(5) On the second Monday in August, and after the approval and adoption of the final budget, the board of county commissioners shall fix the tax levy for each fund at such rate as will raise the amount set out in such budget as the amount necessary to be raised by tax levy for such fund during the current fiscal year, and no more; provided, that the taxable valuation of the county for the then current fiscal year shall be the basis for determining the amount of the tax levy for each fund, and each tax levy shall be at a rate no higher than is required on such basis, without including any amount for anticipated tax delinquency, to produce the amount set out in the budget without including any amount for anticipated tax delinquency, as being the amount to be raised by tax levy, and shall be made in the manner provided by section 84-3802.

(6) The county clerk and recorder shall, not later than the fifteenth day of September following, forward a full, complete, itemized and detailed copy of the final budget, together with the tax levies made therefor, to the state examiner. If any county clerk and recorder shall fail, refuse, or neglect to forward such copy of the budget to the state examiner within such time, the state examiner shall, before the first day of October immediately following, notify the board of county commissioners of such county that such copy of budget has not been forwarded to him by the county clerk and recorder, and such board of county commissioners must thereupon withhold from said county clerk and recorder his salary for the month of September until such time as such county clerk and recorder shall file with such board a receipt

HeinOnline -- 1971 vol. II 1840 1971

from the state examiner showing the receipt by him of such copy."

Section 2. Section 16-2048, R.C.M. 1947, is repealed. Repealing clause.

Section 3. This act is effective upon its passage and approval. Effective date.

Approved June 29, 1971.

CHAPTER NO. 6

An Act to Authorize the Secretary of State to Determine the Number of Signatures Needed for Nominating Petitions of Independent Candidates; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In the case of candidates for the Montana House of Representatives, the Montana Senate, and the Montana Constitutional Convention who may be required to run in districts embracing census enumerator divisions located in more than one county, the secretary of state shall, for those counties split along census enumerator divisions, determine the number of signatures needed for nominating petitions of independent candidates in such districts. The determination shall be based on the most recent federal census population figures for the district. Determination of number of signatures for nominating petitions of independent candidates.

Section 2. This act is effective on its passage and approval and shall remain in effect until such time as the procedures in section 23-3318, R.C.M. 1947, can be followed. Effective date.

Approved June 29, 1971.

CHAPTER NO. 7.

An Act to Amend Section 84-1501, R.C.M. 1947, as Amended by Chapter 333, Session Laws of 1971, to Provide that the Corporation License Tax be Increased to Six and Three-quarters Percent (6¾%); and Providing an Effective Date.

HeinOnline -- 1971 vol. II 1841 1971

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1501, R.C.M. 1947, as amended by chapter 333, Session Laws of 1971, is amended to read as follows:

Corporation license tax—organizations exempt therefrom.

"84-1501. **Corporation license tax—organizations exempt therefrom.** The term corporation includes associations, joint-stock companies, common-law trusts and business trusts which do business in an organized capacity whether created under and pursuant to *the* state laws, agreements, declarations of trust. Every corporation, except as hereinafter provided and except as provided in section 40-2821 (5), R.C.M. 1947, organized and existing under the laws of the state of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said state of Montana, such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth; and every corporation, except as hereinafter provided, *and except as provided in section 40-2821 (5), R.C.M. 1947,* organized and existing under the laws of any other state or country, or the United States, and engaged in business in the state of Montana, shall annually pay for the exclusive use and benefit of the state of Montana a license fee for carrying on its business in the state of Montana of such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth.

Exception.

6¾%.

The percentage of net income to be paid under this section shall be *six and three-quarters percent (6 3/4%)* of all net income for the taxable period. The rate set forth in this act shall be effective for *all* taxable years *ending on or* after February 28, 1971. Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than fifty dollars ($50).

Organizations exempt.

There shall not be taxed under this title any income received by any—

(a). Labor, agricultural or horticultural organization;

(b). Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive

HeinOnline -- 1971 vol. II 1842 1971

benefit of the members of fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

(c). Cemetery company owned and operated exclusively for the benefit of its members;

(d). Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

(e). Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

(f). Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

(g). Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

(h). Farmers' or other mutual hail, cyclone or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

(i). Any cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis;

(j). Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(k). In determining the license fee to be paid under this act, there shall not be included any earnings derived

HeinOnline -- 1971 vol. II 1843 1971

from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function."

Effective period.

Section 2. The rate set forth in this act shall be effective as to all taxable years ending on or after February 28, 1971, whether on the calendar or fiscal year basis.

For taxable years ending on or after February 28, 1973, the percentage of net income to be paid under this act shall be six and one-quarter percent (6¼%) of all net income for the taxable period. In the event a majority of the electors voting at the November 2, 1971 referendum election vote in the affirmative for the reduction of the forty percent (40%) income tax surtax to ten percent (10%) the rate for corporate license tax for taxable years ending on or after February 28, 1972 shall be six and one-quarter percent (6¼%) of all net income for the taxable period.

Effective date.

Section 3. This act shall be effective on passage and approval.

Approved June 29, 1971.

CHAPTER NO. 8

An Act to Apportion the Legislative Assembly According to the 1970 Federal Census; and Repealing Sections 43-106.1 and 43-106.2, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Number of senators —senatorial districts and apportionment.

Section 1. Number of senators—senatorial districts and apportionment. The senate of the legislative assembly shall consist of fifty (50) members. The senatorial districts and the number of senators elected from each district are as follows:

Senatorial Dist. No.	No. of Senators	District consists of County or Counties
1	1	Big Horn, Powder River, Carter, less Ekalaka census enumerator division of Carter
2	1	Custer and Ekalaka census enumerator division of Carter

HeinOnline -- 1971 vol. II 1844 1971

3	2	Richland, Dawson, Wibaux, Fallon
4	2	Sheridan, Roosevelt, Daniels and Valley less the Fort Peck and Hinsdale census enumerator divisions of Valley
5	1	Blaine, Phillips and the Fort Peck and Hinsdale census enumerator divisions of Valley
6	1	Garfield, Rosebud, McCone, Prairie and Treasure
7	1	Stillwater, Carbon and South of the Yellowstone census enumerator division of Sweet Grass
8	6	Yellowstone less the Buffalo Creek census enumerator division, the Shepherd enumerator division and the Huntley Project census enumerator division
9	1	Meagher, Wheatland, Golden Valley, Musselshell and north of the Yellowstone census enumerator division of Sweet Grass and Buffalo Creek census enumerator division and Huntley Project enumerator division of Yellowstone and Shepherd division of the census enumerator of Yellowstone
10	1	Fergus and Petroleum
11	3	Gallatin and Park
12	3	Broadwater, Jefferson and Lewis and Clark
13	6	Cascade
14	2	Hill, Chouteau, Judith Basin and Liberty
15	2	Glacier, Toole, Pondera, Teton
16	3	Flathead

HeinOnline -- 1971 vol. II 1845 1971

17	1	Lake
18	4	Missoula less Bonner-Clinton census enumerator division of Missoula
19	2	Powell, Deer Lodge, Granite and Bonner-Clinton census enumerator division of Missoula
20	3	Silver Bow
21	1	Madison and Beaverhead
22	1	Ravalli
23	2	Mineral, Sanders and Lincoln

Number of representatives—representatives of the legislative assembly shall consist of 100 members.

Section 2. Number of representatives—representatives of the legislative assembly shall consist of one hundred (100) members. The representatives elected from each district are as follows:

Rep. Dist. No.	No. of Rep.	District consists of County or Counties
1	2	Big Horn, Powder River, Carter less Ekalaka census enumerator division of Carter
2	2	Custer and Ekalaka census enumerator division of Carter
3	4	Richland, Dawson, Wibaux, and Fallon
4	4	Sheridan, Roosevelt, Daniels and Valley, less the Fort Peck and Hinsdale census enumerator divisions of Valley
5	2	Blaine, Phillips and the Fort Peck and Hinsdale census enumerator divisions of Valley
6	2	Garfield, Rosebud, McCone, Prairie and Treasure
7	2	Stillwater, Carbon and south of the Yellowstone census enumerator division of Sweet Grass

HeinOnline -- 1971 vol. II 1846 1971

8	12	Yellowstone less the Buffalo Creek census enumerator division, the Shepherd enumerator division and the Huntley Project census enumerator division
9	2	Meagher, Wheatland, Golden Valley, Musselshell and north of the Yellowstone census enumerator division of Sweet Grass and Buffalo Creek census enumerator division and Huntley Project enumerator division and Shepherd division of the census enumerator of Yellowstone
10	2	Fergus and Petroleum
11	6	Gallatin and Park
12	6	Broadwater, Jefferson and Lewis and Clark
13	12	Cascade
14	4	Hill, Chouteau, Judith Basin and Liberty
15	4	Glacier, Toole, Pondera, Teton
16	6	Flathead
17	2	Lake
18	8	Missoula less Bonner-Clinton census enumerator division of Missoula
19	4	Powell, Deer Lodge, Granite and Bonner-Clinton census enumerator division of Missoula
20	6	Silver Bow
21	2	Madison and Beaverhead
22	2	Ravalli
23	4	Mineral, Sanders and Lincoln

HeinOnline -- 1971 vol. II 1847 1971

A multi-member district may be divided into single-member districts within a senatorial district.

Section 3. A multi-member district may be divided into single-member districts within a senatorial district in the following manner:

(1) Eight percent (8%) of the registered voters of the multi-member district as determined by the last registration lists applicable to the counties in such multi-member districts must first petition and said petition shall substantially meet all of the requirements of a petition for initiative and referendum as provided in sections 37-101, 37-102 and 37-103, R.C.M. 1947, for such division. If the multi-member district is located within a single county, the petition signed by the required number of voters shall be filed with the clerk and recorder of that county. If the multi-member district embraces areas in more than one (1) county, the required petition shall be filed in the office of the clerk and recorder of any county embraced in whole or in part in the district and certified copies of such petition shall be sent by that clerk and recorder to the clerks and recorders of all other counties embraced in whole or in part in such multi-member districts.

(2) The clerks and recorders with whom such petitions, whether originals or certified copies, are filed shall as promptly as possible examine such petition as to the signatures thereon which are of residents of their respective counties and shall certify to the clerk and recorder of the county in which the original petition was filed as to the number of valid signatures on said petition as to the number of registered voters in their respective counties and included within the multi-member district. The clerk and recorder with whom the original petition was filed shall also as promptly as possible examine the petition as to the signatures thereon which are of residents of his county and shall determine the number of valid signatures as to his county. Upon receipt of the certificates of the other clerks and recorders, the clerk and recorder with whom the original petition was filed shall total the number of valid signatures on said petition and, if such petition contains valid signatures of at least eight percent (8%) of the registered voters of the multi-member district, he shall so certify to the county commissioners of each county affected in whole or in part.

HeinOnline -- 1971 vol. II 1848 1971

(3) The county commissioners of each county affected in whole or in part, upon receipt of the certification by the clerk and recorder, shall meet together as promptly as possible and shall establish a time of election, at which shall be presented the question whether the district shall be divided into single-member districts.

(4) If a majority of the voters voting at such election shall vote in favor of dividing the multi-member district, the county commissioners of the affected counties shall meet together as promptly as possible after the results of such election have been certified, and shall divide the multi-member district into single-member districts. Any such plan of division shall require the approval of the majority of the commissioners of each of the counties affected.

(5) Single-member districts shall be as compact as possible, comprise contiguous territory and shall be as nearly equal as practicable in population. Boundaries of the single-member districts shall follow the census enumerator division lines.

Senators—terms.

Section 4. The senators shall be elected for the term of four (4) years and they shall be divided into two (2) classes with terms concluding in alternate bienniums. The terms of office of those senators in districts 8, 13, 16, 17, 18, 20, 21 and 22 will continue as they presently exist, and they will run for reelection upon expiration of their present terms of office. The terms of office of all other senators will expire on the first Monday of January 1973.

The senators elected in districts 1, 2, 5 and 6 shall be elected for a term of four (4) years. The senators elected in districts 3, 4, 11, 12, 14, 15, 19 and 23 shall, pursuant to the regulations to be promulgated by the secretary of state, draw lots for the purpose of determining which of said elected senators of said districts shall serve for four (4) years and which shall serve for two (2) years to the end that in each of the said districts, insofar as possible, one-half (½) of the senators shall serve for four (4) years and one-half (½) for two (2) years; provided, however, that in districts 11 and 12 the senators there elected shall draw lots to determine which one of the three in each district shall be subject to the drawing hereinafter mentioned.

HeinOnline -- 1971 vol. II 1849 1971

The remaining senators from districts 11 and 12 shall themselves draw lots to determine which shall serve for four (4) years and which shall serve for two (2) years. The names of elected senators from districts 7, 9 and 10 including the one (1) from each of districts 11 and 12, aforesaid, shall be placed in a receptacle from which the secretary of state shall draw three (3) names. The senators whose names are thus drawn shall serve for four (4) years and the remainder not drawn shall serve for two (2) years.

Severability clause.

Section 5. If any clause, sentence, paragraph, section, or any part of this act shall be declared and adjudged to be invalid and/or unconstitutional, such invalidity or unconstitutionality shall not affect, impair, invalidate or nullify the remainder of this act.

Repealing clause.

Section 6. Sections 43-106.1 and 43-106.2, R.C.M. 1947, are repealed.

Effective date.

Section 7. This act shall be effective upon passage and approval.

Approved June 29, 1971.

CHAPTER NO. 9

An Act Providing For a Referendum to be Submitted to the Electors in November 1971 for a Law Which Provides for the Levying of a Two Percent (2%) Sales and Use Tax to Support State Government; Providing for the Administration Thereof and for Penalty in Case of Violation Thereof; Providing for an Income Tax Refund or Credit for Sales and Use Tax Upon Food, Drugs and Related Iitems; Providing an Increase in Income Tax Surtax to Forty Percent (40%) by Amending Section 84-4902.1, R.C.M. 1947, for Calendar Year 1971 if the Referendum Passes; Providing for the Continuance of Such Surtax Rate to December 31, 1972 if the Referendum Fails; Providing for Repeal of Acts or Parts of Acts in Conflict Herewith and Providing Effective Dates.

Be it enacted by the Legislative Assembly of the State of Montana:

Title.

Section 1. **Title of Act.** This act is known and may be cited as "The 1971 Montana Revenue Act."

HeinOnline -- 1971 vol. II 1850 1971

Section 2. **Definitions.** The following words, terms, and phrases shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning: Definitions.

(1) "Person" means any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural as well as the singular number. "Person."

(2) "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication; and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale. "Sale."

(3) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this act, and includes any such transaction as the state board of equalization upon investigation finds to be in lieu of a sale; but sales for resale must be made in strict compliance with rules and regulations made under this act. Any person making a sale for resale which is not in strict compliance with such rules and regulations shall himself be liable for and pay the tax. "Retail sale" and a "sale at retail" include: "Retail sale or a sale at retail." Definition includes.

(i) the sale or charges for any room or rooms, lodging or accommodations furnished to transients by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodg-

HeinOnline -- 1971 vol. II 1851 1971

ing, space, or accommodations are regularly furnished to transients for a consideration. A transient is a person who occupies rooms, lodgings, or accommodations for less than a period of sixty (60) continuous days.

(ii) sales of tangible personal property to persons for resale if, because of the operation of the business or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because the persons are minors or transients, or because the persons are engaged in essentially service businesses, or for any other reason, there is likelihood that the state will lose tax funds due to the difficulty of policing the business operations. The state board of equalization may promulgate rules and regulations requiring vendors of or sellers to such persons to collect the tax imposed by this act on the cost price of the tangible personal property to such persons and may refuse to issue certificates of registration to such persons.

(iii) the sale or charge of admissions.

(iv) the charge for the service of printing or imprinting, photographing, or copying by any means whatsoever for a consideration for persons who furnish either directly or indirectly the materials used in conjunction with the rendition of the service.

(v) the charge for barber and beauty services to persons and animals for a consideration whether or not any tangible personal property is transferred in conjunction with the performance of the service.

(vi) the charge for motor vehicle parking service or parking space in privately owned parking lots or garages and the charge for docking or storage space for boats in privately owned boat docks or marinas.

(vii) the furnishing of intrastate telephonic and telegraphic communications and services.

"Gross sales."

(4) "Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this act, without any deduction whatsoever of any kind or character, except as provided in this act. "Gross sales" do not include the federal retailers' ex-

HeinOnline -- 1971 vol. II 1852 1971

cise tax if this excise tax is billed to the purchaser separately from the selling price of the article, or the retail sales or use tax, or any sales tax imposed by any county or city.

"Sale price." (5) "Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever; but cash discounts allowed and taken on sales are not included in the sales price; nor shall the sales price include finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sales contracts or other conditional contracts providing for deferred payments of the purchase price or transportation charges separately stated. If used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this act shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles. In the case of motor vehicles the proceeds of the tax levied under this act shall be deposited in the general fund and not credited to the state highway fund irrespective of any other provision of law.

"Cost price." (6) "Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price in subparagraph (5) of this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Lease or rental." (7) "Lease or rental" means the leasing or renting of tangible personal property and the possession of use thereof by the lessee or rentee for a consideration, without transfer of the title to the property.

"Distribution." (8) "Distribution" includes the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or

HeinOnline -- 1971 vol. II 1853 1971

storage of tangible personal property by a person who has processed, manufactured, refined, or converted the property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this act.

"Gross proceeds." (9) "Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price in subsection (b) of this section over the term of the lease, rental, service, or use, but not less frequently than monthly.

"Storage." (10) "Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in this state, or for any purpose other than the sale at retail in the regular course of business.

"Use." (11) "Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business.

"Business." (12) "Business" means any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect.

"Retailer." (13) "Retailer" means every person engaged in the business of making sales of tangible personal property and taxable services as defined in this act.

"Tangible personal property." (14) "Tangible personal property" means personal property, which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" does not include stocks, bonds, notes, insurance or other obligations or securities.

"Use tax." (15) "Use tax" means the tax imposed upon the use, consumption, distribution, and storage of tangible personal property as herein defined.

"In this state or in the state." (16) "In this state" or "in the state" means within the exterior limits of the state of Montana and includes all territory within these limits owned by or ceded to the United States of America.

HeinOnline -- 1971 vol. II 1854 1971

"Import and imported."

(17) The words "import" and "imported" apply to tangible personal property imported into this state from other states as well as from foreign countries, and the words "export" and "exported" apply to tangible personal property exported from this state to other states as well as to foreign countries.

Imposition of sales tax.

Section 3. **Imposition of Sales Tax.** There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this state, or who rents or furnishes any of the things or services taxable under this act, or who stores for use or consumption in this state any item or article of tangible personal property as defined in this act, or who leases or rents such property within this state, the same to be collected in the amount to be determined by applying the rate of two percent (2%) to:

(1) the sales price of each item or article of tangible personal property when sold at retail or distributed in state, the tax to be computed on gross sales.

(2) the gross proceeds derived from the lease or rental of tangible personal property, as defined in this act, where the lease or rental of such property is an established business, or part of an established business, or is incidental or germane to the business.

(3) the cost price of each item or article of tangible personal property stored in this state for use or consumption in this state.

(4) the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations furnished to transients as set out in subparagraph (3) (i), section 2 of this act.

(5) the gross sales of all services taxable under this act. No services are taxable under this act except those expressly enumerated and made taxable.

Section 4. **Imposition of Use Tax.** There is levied and imposed, in addition to all other taxes and fees of every kind except the tax imposed under section 3 of this act, a tax upon the use or consumption of tangible

HeinOnline -- 1971 vol. II 1855 1971

personal property in this state, to be collected in the amount determined by applying the rate of two percent (2%) to the cost price of each item or article of tangible personal property used or consumed in this state: Provided, that tangible personal property which has been acquired after the effective date of this act for use outside this state and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this state for use within six (6) months of its acquisition; but if so brought within this state six (6) months or more after its acquisition, the property shall be taxed on the basis of the current market value (but not in excess of its cost price) of the property at the time of its first use within this state: Provided, further, that the tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this state bears to the total useful life of the property (but it shall be presumed in all cases that the property will remain within this state for the remainder of its useful life unless convincing evidence is provided to the contrary).

Exclusions and exemptions.

Section 5. **Exclusions and Exemptions.** "Retail sale" or "sale at retail," do not include the sale of:

(1) tangible personal property which becomes an ingredient or component part, or is consumed or destroyed or loses its identity in the manufacture of tangible personal property for later sale but does include fuel and electricity;

(2) specific machinery and processing equipment and repair parts or replacements thereof, exclusively designed and made for and specifically used in the growing or manufacturing of a product or the rendering of a taxable service;

(3) materials, containers, labels, sacks, cans, boxes, drums or bags and other packing, packaging, or shipping materials for use in packing, packaging or shipping tangible personal property;

(4) tangible personal property delivered pursuant to bona fide written contracts entered into before the date of the enactment of this act, provided delivery is made within ninety (90) days after the effective date

HeinOnline -- 1971 vol. II 1856 1971

of this act; and building supplies, fixtures or equipment that enter into or become a part of a building or other kind of structure in this state, where plans, specifications, and the construction contract for a specific project has been entered into prior to the date of the enactment of this act, provided delivery is made within the time specified in such contract for the completion of such specific project;

(5) commercial feeds, seed, plants, fertilizer, liming materials, breeding and other livestock, semen, breeding fees, baby chicks, turkey poults, agricultural chemicals, fuel, containers for fruits and vegetables, or farm machinery, provided they are sold to and purchased by farmers for use in agricultural production for market;

(6) school lunches sold and served to pupils and employees of schools and subsidized by government, and school textbooks sold by a local school board or authorized agency thereof; and school textbooks sold by a college or other institution of learning, not conducted for profit, for use of students attending the institution of learning;

(7) tangible personal property not held or used by a seller in the course of an activity for which he is required to hold a certificate of registration, sometimes referred to as "casual sales"; "Casual sales."

(8) tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to the business, including a simultaneous purchase and taxable leaseback;

(9) tangible personal property and taxable services for use or consumption by the United States, the state of Montana or any political subdivision of this state; but this exclusion shall not apply to sales and leases to privately owned financial and other privately owned corporations chartered by the United States, the state of Montana, or political subdivisions of this state;

(10) delivery of tangible personal property outside this state for use or consumption outside this state.

(11) fuels used for the propulsion of vehicles on the

HeinOnline -- 1971 vol. II 1857 1971

public highways and which are included within the provisions of Article XII section 1 b of the Constitution of Montana.

Credit for taxes paid in another state.

Section 6. **Credit for taxes paid in another state.** A credit shall be granted against the taxes imposed by this act with respect to a person's use in this state of tangible personal property purchased by him in another state. The amount of the credit shall be equal to the tax paid by him to another state or political subdivision thereof by reason of the imposition of a similar tax on his purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this act.

Applicability or inapplicability of use tax in certain cases.

Section 7. **Applicability or inapplicability of Use Tax in certain cases.** The use tax does not apply to tangible personal property owned or acquired in this state or imported into this state, or held or stored in this state, prior to the effective date of this act. The use tax does apply to all tangible personal property imported or caused to be imported into this state on or after the effective date of this act except as provided in this act, unless the property has previously been subject to a sales or use tax in another state or political subdivision equal or greater than the tax imposed by this act for which credit is given under section 6, or unless proof is furnished that the tangible personal property imported or caused to be imported into this state was owned or acquired prior to the effective date of this act, or otherwise is exempt under this act, but the use tax does not apply to the use of any article or tangible personal property brought into the state by a non-resident individual for his personal use while visiting within the state.

Moving residence or business into state—use tax.

Section 8. **Moving residence or business into state; Use Tax.** The use tax does not apply to tangible personal property purchased outside this state for use outside this state by a then non-resident natural person or a business entity not actually doing business within this state who or which later brings the tangible personal property into this state in connection with his establishment of a permanent residence or business in this state, provided that the property was purchased more than six (6) months prior to the date it was first brought into this state or prior to the establishment of the residence or business, whichever first occurs. This section

HeinOnline -- 1971 vol. II 1858 1971

does not apply to tangible personal property temporarily brought into this state for the performance of contracts for the construction, reconstruction, installation, repair, or for any other service with respect to real estate or fixtures thereon.

Diversion of tangible personal property to personal use.

Section 9. **Diversion of tangible personal property to personal use.** The use tax applies to tangible personal property and taxable services of persons holding themselves out as sellers of goods and services when tangible personal property or taxable services are diverted to the personal use of the person, his family, or his employees.

Dealers.

Section 10. **Dealers.** The tax levied in section 3 and section 4 shall be collected from "dealers." For the purpose of this act, "dealer" means:

(1) any person physically located in this state who:

(i) manufactures or produces tangible personal property for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this state;

(ii) imports or causes to be imported into this state tangible personal property from any state or foreign country, for sale at retail for use, consumption, or distribution, or for storage to be used or consumed in this state;

(iii) sells at retail, or offers for sale at retail, or has in possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this state, tangible personal property and taxable services as defined in this act;

(iv) has sold at retail, or used, consumed, or distributed, or stored for use or consumption in this state, tangible personal property or who has performed taxable services, and who cannot prove that the tax levied by this act has been paid on the sale at retail, the use, consumption, distribution, or storage of such tangible personal property or the charge for the rendition of taxable services;

(v) leases or rents tangible personal property, as defined in this act, for a consideration, permitting the use or possession of the property without transferring title thereto; and

HeinOnline -- 1971 vol. II 1859 1971

(2) every other person who:

(i) maintains or has within this state, directly, or by an agent or a subsidiary, an office, distributing house, sales room, or house, warehouse, or other place of business;

(ii) solicits business in this state either by employees, independent contractors, agents or other representatives, and by reason thereof makes sales to persons within this state of tangible personal property, the use of which is taxed by this act; and any other person making sales to persons within this state of tangible personal property, the use of which is taxed by this act, who may be authorized by the state board of equalization to collect such tax;

(iii) as a representative, agent, or solicitor, for an out-of-state principal, solicits, receives and accepts orders from persons in this state for future delivery and whose principal refuses to register under this act;

(iv) shall become liable to and shall owe this state any amount of tax imposed by this act, whether or not he holds, or is required to hold, a certificate of registration under this act.

Contractors.

Section 11. **Contractors.** (a) Any person who contracts orally, in writing, or by purchase order, to perform construction, reconstruction, installation, repair, or any other service with respect to real estate or fixtures thereon and in connection therewith to furnish tangible personal property or taxable services, shall be deemed to have purchased the tangible personal property for use or consumption. Any sale, distribution, or lease to or storage for such person shall be deemed a sale, distribution, or lease to or storage for the ultimate consumer and not for resale, and the dealer making the sale, distribution, or lease to or storage for the person shall collect the tax to the extent required by this act.

(b) Any person who contracts to perform services in this state and is furnished tangible personal property for use under the contract by the person, or his agent or representative, for whom the contract is performed, and if a sale or use tax has not been paid to this state by the person supplying the tangible personal property,

HeinOnline -- 1971 vol. II 1860 1971

shall be deemed to be the consumer of the tangible personal property so used, and shall pay a use tax based on the fair market value of the tangible personal property so used, irrespective of whether or not any right, title or interest in the tangible personal property becomes vested in the contractor; but this subsection does not apply to the sale of tangible personal property which becomes an ingredient or component part of, or is consumed or destroyed or loses its identity in the manufacture of tangible personal property for later sale or governmental exclusion set out in section 5 of this act.

(c) Any person who contracts orally, in writing, or by purchase order to perform any service in the nature of equipment rental, and the principal part of that service is the furnishing of equipment or machinery which will not be under the exclusive control of the contractor, shall be liable for the sale or use tax on the gross proceeds from such contract to the same extent as the lessor of tangible personal property.

(d) Tangible personal property incorporated in real property construction which loses its identity as tangible personal property shall be deemed to be tangible personal property used or consumed within the meaning of this section.

(e) Nothing in this section shall be construed to affect or limit the resale exclusion provided for in this act, nor shall anything contained herein be construed to impose any sales or use tax with respect to the use in the performance of contracts with the United States or this state and its political subdivisions, of tangible personal property owned by a governmental body which actually is not used or consumed in the performance thereof.

Certificates of registration.

Section 12. **Certificates of registration.** (a) Every person desiring to engage in or conduct business as a dealer in this state shall file with the state board of equalization an application for a certificate of registration for each place of business in this state.

(b) Every application for a certificate of registration shall be made upon a form prescribed by the state board of equalization and shall set forth the name under which the applicant transacts or intends to transact

HeinOnline -- 1971 vol. II 1861 1971

business, the location of his place or places of business, and such other information as the state board of equalization requires. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(c) When the required application has been made the state board of equalization shall issue to each applicant a separate certificate of registration for each place of business within this state. A certificate of registration is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall be at all times conspicuously displayed at the place for which issued.

(d) Whenever any person fails to comply with any provision of this act or any rule or regulation of the state board of equalization relating thereto, the state board of equalization, upon hearing after giving such person ten (10) days notice in writing, specifying the time and place of hearing and requiring him to show cause why his certificate of registration should not be revoked or suspended, may revoke or suspend any one or more of the certificates of registration held by such person. The notice may be personally served or served by certified mail directed to the last known address of the person. A dealer whose certificate of registration has been previously suspended or revoked shall pay the state board of equalization a fee of twenty dollars ($20) for the renewal or reissuance of a certificate of registration.

(e) Any person who engages in business as a dealer in this state without obtaining a certificate of registration or after a certificate of registration has been suspended or revoked, and each officer of any corporation which so engages in business is guilty of a misdemeanor; each day's continuance in business in violation of this section is a separate offense.

(f) If the holder of a certificate of registration ceases to conduct his business at the place specified in his certificate, the certificate expires; and the holder shall inform the state board of equalization in writing

HeinOnline -- 1971 vol. II 1862 1971

within thirty (30) days after he has ceased to conduct the business at that place; but, if the holder of a certificate of registration desires to change his place of business to another place in this state, he shall so inform the state board of equalization in writing, and his certificate shall be revised accordingly.

(g) This section also applies to any person who engages in the business of furnishing any of the things or services taxable under this act. Also, it applies to any person who is liable only for the collection of the use tax, but that person may be issued a certificate of registration in relevant form.

Exemption certificates.

Section 13. **Exemption certificates.** (a) All sales or leases are subject to the tax until the contrary is established. The burden of proving that a sale, distribution, lease, or storage of tangible personal property is not taxable is upon the person who makes the sale, distribution, lease, or storage, unless he takes from the purchaser or lessee a certificate to the effect that the property is exempt under this act.

(b) The certificate mentioned in this section relieves the person who takes the certificate from any liability for the payment or collection of the tax, except upon notice from the state board of equalization that the certificate is no longer acceptable. The certificate shall be signed by and bear the name and address of the purchaser or lessee, indicate the number of the certificate of registration (if any) issued to the purchaser, or lessee, indicate the general character of the taxable service rendered or tangible personal property sold, distributed, leased, or stored (or to be sold, distributed, leased, or stored under a blanket exemption certificate) and be substantially in such form as the state board of equalization prescribes.

(c) If a purchaser or lessee who gives a certificate under this section makes any use of the property other than an exempt use or retention, demonstration, or display while holding property for resale, distribution, or lease in the regular course of business, the use shall be deemed a taxable sale by the purchaser or lessee as of the time the property or service is first used by him, and the cost of the property to him shall be deemed the sales

HeinOnline -- 1971 vol. II 1863 1971

price of the retail sale. If the sole use of the property other than retention, demonstration, or display in the regular course of business is the rental of the property while holding it for sale, distribution, or lease, the purchaser shall pay the tax on the cost of the property to him and when the property is sold shall collect and pay the tax on the difference between the cost of the property to him and the retail sales price.

(d) If a purchaser gives a certificate under this section with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased, but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales or distribution from the mass of commingled goods shall be deemed to be sales or distributions of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold or distributed.

Collection.

Section 14. **Collection.** The tax levied by this act shall be paid by the dealer, but the dealer shall separately state the amount of the tax and add the tax to the sales price or charge; and thereafter, the tax shall be a debt from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the same manner as other debts, but no action at law or suit in equity under this act may be maintained in this state by any dealer who is not registered under this act, or is delinquent in the payment of the taxes imposed under this act.

To eliminate separate statement of the amount of tax in franctions of one cent (1¢), dealers shall add to the sales price or charge and collect from the purchaser, consumer, or lessee such amounts as may be prescribed by the state board of equalization to carry out the purposes of this section.

Notwithstanding any exemption from taxes which any dealer enjoys under the Constitution or laws of this or any other state, or of the United States, the dealer shall collect the tax from the purchaser, consumer, or lessee and shall pay it over to the state board of equalization as herein provided.

Any dealer who neglects, fails, or refuses to collect the tax upon each and every taxable sale, distribution,

HeinOnline -- 1971 vol. II 1864 1971

lease or storage of tangible personal property made by him, his agents, or employees shall be liable for and pay the tax himself, and the dealer shall not thereafter be entitled to sue for or recover in this state any part of the purchase price or rental from the purchaser until the tax is paid. Also, any dealer who neglects, fails or refuses to pay or collect the tax herein provided, either by himself or through his agents or employees, is guilty of a misdemeanor.

Absorption of tax prohibited.

Section 15. **Absorption of tax prohibited.** No person shall advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the sales or use tax, or that he will relieve the purchaser, consumer, or lessee of the payment of all or any part of the tax, except as authorized under section 31. Any person who violates this section is guilty of a misdemeanor.

Returns by dealers.

Section 16. **Returns by dealers.** Every dealer required to collect or pay the sales or use tax, on or before the twenty-eighth day of the month following the month in which the tax shall become effective, shall transmit to the state board of equalization, upon a form prescribed, prepared and furnished by the state board of equalization, a return showing the gross sales, gross proceeds, or cost price, as the case may be, arising from all transactions taxable under this act during the preceding calendar month; and thereafter a like return shall be prepared and transmitted to the state board of equalization by every dealer on or before the twenty-eighth day of each month, for the preceding calendar month. The return also shall contain a statement showing the amount in each class of exclusions and exemptions which are not subject to the tax imposed by this act, or if the form so provides, the total amount thereof without specifying each class. In the case of dealers regularly keeping books and accounts on the basis of an annual period which varies fifty-two (52) to fifty-three (53) weeks, the state board of equalization may make rules and regulations for reporting consistent with the accounting period. When the tax for which any dealer is liable under this act does not exceed five dollars ($5) in any month, or sixty dollars ($60) in any annual reporting period, the state board of equalization may permit a dealer upon written application to file an annual return and pay the amount

HeinOnline -- 1971 vol. II 1865 1971

of tax due on the last day of the month following the end of the annual period. When the tax for which any dealer is liable under this act does not exceed ten dollars ($10) in any month, or sixty dollars ($60) in any annual reporting period, the state board of equalization may permit a dealer upon written application to file a quarterly return and pay the amount of tax due on the last day of the month following end of the quarterly period.

Payment to accompany dealer's return.

Section 17. **Payment to accompany dealer's return.** At the time of transmitting to the state board of equalization the return required under section 16, the dealer shall remit to the state board of equalization therewith the amount of tax due under the applicable provisions of this act after making appropriate adjustments for purchases returned, repossessions, and accounts uncollectible and charged off as provided in sections 18, 19, and 20. The tax imposed by this act for each month becomes delinquent on the day following the twenty-eighth day of the succeeding month if not theretofore paid.

Returned goods.

Section 18. **Returned goods.** If purchases are returned to the dealer by the purchaser or consumer after the tax imposed by this act has been collected or charged to the account of the purchaser, the dealer is entitled to reimbursement of the amount of tax collected or charged by him, in the manner prescribed by the state board of equalization, but the amount of tax so reimbursed to the dealer shall not include the tax paid upon any cash retained by the dealer after the return of merchandise; and if the tax has not been remitted by the dealer, the dealer may deduct it in submitting his return. The dealer shall be issued a refund by the state board of equalization equal to the net amount remitted by the dealer for the tax collected if the dealer can establish that the tax was not due.

Repossessions.

Section 19. **Repossessions.** A dealer who has paid the tax on tangible personal property sold under a retained title, conditional sale, or similar contract, may take credit for the tax paid by him upon the unpaid balance due him when he repossesses the property, the credit to be administered by the state board of equalization in the same manner as provided for returned purchases under section 18. When repossessed property is resold, the sale is subject in all respects to this act.

HeinOnline -- 1971 vol. II 1866 1971

Bad debts.

Section 20. **Bad debts.** In any return filed under the provisions of this act, the dealer, under rules and regulations prescribed by the state board of equalization, may credit against the tax shown to be due on the return the amount of sales or use tax previously returned and paid on accounts which during the period covered by the current return have been found to be worthless and actually charged off for income tax purposes; except that if any accounts so charged off are thereafter in whole or in part paid to the dealer, the amount paid shall be included in the first return filed after the collection and the tax paid accordingly.

Extensions.

Section 21. **Extensions.** The state board of equalization may grant an extension upon written application therefor to the end of the calendar month in which any tax return is due hereunder or for a period not exceeding thirty (30) days, and no interest or penalty shall be charged, assessed or collected by reason of the granting of the extension, except that when an extension is granted beyond the end of the calendar month in which any tax return is due, interest on the tax at the rate of one-half (½) of one percent (1%) per month, or fraction thereof, shall be charged.

Civil penalties.

Section 22. **Civil penalties.** When any dealer fails to make any return and pay the full amount of the tax required by this act, there shall be imposed, in addition to other penalties provided herein, a specific penalty to be added to the tax in the amount of twenty-five dollars ($25) and ten percent (10%) of the tax due if the failure is for not more than thirty (30) days, with an additional five percent (5%) for each additional thirty (30) days, or fraction thereof, during which the failure continues, not to exceed twenty-five percent (25%) in the aggregate; but, if the failure is due to providential cause shown to the satisfaction of the state board of equalization, the return with remittance may be accepted exclusive of penalties. In the case of a false or fraudulent return, where willful intent exists to defraud the state of any tax due under this act, a specific penalty of fifty percent (50%) of the amount of the proper tax shall be assessed. All penalties and interest imposed by this act shall be payable by the dealer and collectible by the state board of equalization as if they were a part of the tax imposed.

HeinOnline -- 1971 vol. II 1867 1971

Assessment based on estimate.

Section 23. **Assessment based on estimate.** (a) If any dealer fails to make a return as provided by this act, or makes a grossly incorrect return, or a return that is false or fraudulent, the state board of equalization shall make an estimate for the taxable period of the retail sales or distributions of the dealer, or of the gross proceeds from leases of tangible personal property, or taxable services by the dealer, or the cost price of all articles of tangible personal property imported by the dealer for use or consumption in the state or storage by the dealer of tangible personal property to be used or consumed in the state, and assess the tax, plus penalties. The state board of equalization shall give the dealer ten (10) days notice in writing requiring the dealer to appear before him or an assistant with such books, records, and papers as he requires relating to the business of the dealer for the taxable period; and the state board of equalization may require the dealer or the agents and employees of the dealer to give testimony or to answer interrogatories under oath administered by the state board of equalization respecting the sale, distribution, lease, use, consumption, or storage of tangible personal property, or taxable services or the failure to make a return thereof as provided in this act. If any dealer fails to make any return or refuses to permit an examination of his books, records, or papers, or to appear and answer questions within the scope of an investigation relating to the sale, distribution, lease, use, consumption, or storage of tangible personal property, or taxable services, the state board of equalization may make the assessment based upon information available to it and issue a warrant for the collection of the taxes and penalties found to be due. The assessment shall be deemed prima facie correct.

(b) If the dealer has imported the tangible personal property and fails to produce an invoice showing the sales price of the articles, or the invoice does not reflect the true or actual sales price as defined in this act, the state board of equalization shall ascertain, in any manner feasible, the true sales price and assess and collect the tax, with penalties, to the extent they have accrued, on the true sales price as ascertained by it. The assessment shall be deemed prima facie correct.

(c) In the case of the lease of tangible personal property, if the consideration given or reported by the dealer,

HeinOnline -- 1971 vol. II 1868 1971

in the judgment of the state board of equalization, does not represent the true or actual consideration, the state board of equalization may fix it and assess and collect the tax thereon as above provided, with penalties as have accrued. The assessment shall be deemed prima facie correct.

Records.

Section 24. **Records.** (a) Every dealer required to make a return and pay or collect any tax under this act shall keep and preserve suitable records of the sales, leases, or purchases, as the case may be, taxable under this act, and other books of account as necessary to determine the amount of tax due hereunder, and other pertinent information as required by the state board of equalization; and every dealer shall keep and preserve for a period of four (4) years all invoices and other records of goods, wares, and merchandise, or other subjects of taxation under this act, and all the books, invoices, and other records shall be open to examination at all reasonable hours by the state board of equalization or any of its duly authorized agents.

(b) In order to aid in the administration and enforcement of the provisions of this act, all wholesalers and jobbers in this state shall keep a record of all sales of tangible personal property, whether the sales be for cash or on terms of credit. The records required to be kept by all wholesalers and jobbers shall include the name and address of the purchaser, the number of the certificate of registration issued to the purchaser, the date of the purchase, the article purchased, and the price at which the article is sold to the purchaser. These records shall be kept for a period of four (4) years and shall be open to the inspection of the state board of equalization (or its authorized agents) at all reasonable hours during the day. The failure of any wholesaler or jobber in this state to keep the records, or the failure of any wholesaler or jobber in this state to permit an inspection of the records by the state board of equalization as aforesaid, is a misdemeanor. Moreover, if any person who is both a retailer and a wholesaler or jobber fails to keep proper records showing wholesale sales and retail sales separately, he shall pay the tax as a retailer on both classes of his business.

(c) For the purpose of enforcing the collection of

HeinOnline -- 1971 vol. II 1869 1971

the tax levied by this act, the state board of equalization through its authorized agents may examine at all reasonable hours during the day the books, records, and other documents of all transportation companies, agencies, firms, or persons that conduct their business by truck, rail, water, airplane, or otherwise, in order to determine what dealers are importing or otherwise are shipping articles of tangible personal property which are liable for the tax. If the transportation company, agency, firm or person refuses to permit an examination of its or his books, records, and other documents by the state board of equalization, it or he shall be deemed guilty of a misdemeanor. Moreover, the state board of equalization may proceed by petitioning any court of record for an order citing the transportation company, agency, firm, or person to show cause before said court of record why the books, records, and other documents should not be examined pursuant to the injunction of the court, and why a bond should not be required with proper security in the penalty of not more than two thousand dollars ($2,000) conditioned upon compliance with the provisions hereof for a period of not more than one (1) year.

Sale of business.

Section 25. **Sale of business.** If any dealer liable for any tax, penalty, or interest levied hereunder sells out his business or stock of goods or quits the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting the business. The return shall include any sales made at retail during liquidation. His successors or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of taxes, penalties, and interest due and unpaid until the former owner produces a receipt from the state board of equalization showing that they have been paid or a certificate stating that no taxes, penalties, or interest are due. If the purchaser of a business or stock of goods fails to withhold the purchase money as above provided, he shall be personally liable for the payment of the taxes, penalties and interest due and unpaid on account of the operation of the business by any former owner. Nothing herein shall be deemed to qualify or limit the exemption as to such a sale as is covered by section 5.

Bond.

Sectcion 26. **Bond.** The state board of equalization, if necessary and advisable in order to secure the collec-

HeinOnline -- 1971 vol. II 1870 1971

tion of the tax levied by this act, may require any person subject to the tax to file with it a bond of a surety company authorized to do business in this state as surety, in such reasonable amount as the state board of equalization fixes, to secure the payment of any tax, penalty or interest due or which may become due from the person. In lieu of a bond, securities approved by the state board of equalization may be deposited with the state treasurer which securities shall be kept in the custody of the state treasurer, and shall be sold by him, at the request of the state board of equalization, at public or private sale, without notice to the depositor thereof, if necessary in order to recover any tax, penalty or interest due the state under this act. Upon the sale, the surplus, if any, above the amounts due under this act, shall be returned to the person who deposited the securities.

Jeopardy assessment.

Section 27. **Jeopardy assessment.** If the state board of equalization deems that the collection of any tax or any amount of tax, required to be collected and paid under this act, may be jeopardized by delay, it shall make an assessment of the tax or amount of tax required to be collected and shall mail or issue a notice of the assessment to the taxpayer together with a demand for immediate payment of the tax or of the deficiency in tax declared to be in jeopardy including penalties. In the case of a tax for a current period, the state board of equalization may declare the taxable period of the taxpayer immediately terminated and shall cause notice of the finding and declaration to be mailed or issued to the taxpayer together with a demand for immediate payment of the tax based on the period declared terminated and the tax shall be immediately due and payable, whether or not the time otherwise allowed by law for filing a return and paying the tax has expired. Assessments provided for in this section shall become immediately due and payable, and if any tax, penalty or interest is not paid upon demand of the state board of equalization, it shall proceed to collect it by legal process, or, in its discretion, it may require the taxpayer to file a bond sufficient to protect the interest of the state.

Direct payment permits.

Section 28. **Direct payment permits.** (a) Notwithstanding any other provisions of this act, the state board of equalization may authorize (1) a manufacturer, mine

HeinOnline -- 1971 vol. II 1871 1971

operator, or public service corporation that is a user, consumer, distributor, or lessee to which sales, distributions, leases, or storage of tangible personal property are made under circumstances which normally make it impossible at the time thereof to determine the manner in which the property will be used by the person, or (2) any person who stores tangible personal property in this state for use both within and outside this state, to pay any tax levied by this act directly to this state and waive the collection of the tax by the dealer; but no such authority shall be granted or exercised except upon application to the state board of equalization and the issuance by the state board of equalization of a direct payment permit. If a direct payment permit is granted, payment of the tax on all sales, distributions, and leases, including sales, distributions, leases, and storage of tangible personal property and sales of taxable services for use known at the time thereof shall be made directly to the state board of equalization by the permit holder.

(b) On or before the twenty-eighth day of each month every permit holder shall make and file with the state board of equalization a return for the preceding month in the form prescribed by the state board of equalization showing the total value of the tangible personal property used, the amount of tax due from the permit holder (which amount shall be paid to the state board of equalization with such return) and such other information as the state board of equalization deems necessary. The state board of equalization, upon written request by the permit holder, may grant a reasonable extension of time for making and filing returns and paying the tax. Interest on the tax at the rate of one-half (½) of one percent (1%) per month, or fraction thereof, shall be charged on every extended payment.

(c) It is the duty of every permit holder required to make a return and pay tax under this section to keep and preserve suitable records of purchases, together with invoices of purchases, bills of lading, and other pertinent records and documents in the form the state board of equalization requires by regulation. All records and other documents shall be open during business hours to the state board of equalization or its duly authorized agents and shall be preserved for a period of four (4) years,

HeinOnline -- 1971 vol. II 1872 1971

unless the state board of equalization, in writing, authorizes their destruction or disposal at an earlier date.

(d) A permit granted pursuant to this section shall continue to be valid until surrendered by the holder or cancelled for cause by the state board of equalization.

(e) Persons who hold a direct payment permit which has not been cancelled shall not be required to pay the tax to the dealer as otherwise herein provided. Such persons shall notify each dealer from whom purchases or leases of tangible personal property are made of their direct payment permit number and that the tax is being paid directly to the state board of equalization. Upon receipt of the notice, the dealer shall be absolved from all duties and liabilities imposed by this act for the collection and remittance of the tax with respect to sales, distributions, leases, or storage of tangible personal property to the permit holder. Dealers who make sales upon which the tax is not collected by reason of the provisions of this section shall maintain records in such manner that the amount involved and identity of each purchaser may be ascertained.

(f) Upon the cancellation or surrender of a direct payment permit, the provisions of this act, shall thereafter apply to the person who previously held the permit, and the person shall promptly notify in writing dealers from whom purchases, leases, and storage of tangible personal property are made of the cancellations or surrender. Upon receipt of the notice, the dealer shall be subject to the provisions of this act, with respect to all sales, distributions, leases, or storage of tangible personal property thereafter made to the person.

Vending machine sales.

Section 29. **Vending machine sales.** Whenever a dealer makes sales of tangible personal property through vending machines, or in any other manner making collection of the tax impractical, the state board of equalization may authorize the dealer to prepay the tax and waive collection from the purchaser and may require the dealer to furnish bond sufficient to secure prepayment of the tax. The dealer shall be required to print upon the property sold or post on the vending machine a statement to the effect that the tax has been paid in advance. The terms and conditions of this section are inapplicable

HeinOnline -- 1971 vol. II 1873 1971

unless the dealer makes application to the state board of equalization for the authority herein contained, and unless the state board of equalization finds that the collection of the tax in the manner otherwise provided in this act is impractical.

Tax warrants.

Section 30. **Tax warrants.** The state board of equalization, when any tax becomes delinquent under this act, may issue a warrant for the collection of the tax, penalty, and interest from each delinquent taxpayer.

Erroneous assessments.

Section 31. **Erroneous assessments.** Upon any claim of an erroneous or illegal assessment or collection, the taxpayer shall have his remedy under section 84-4923.1, R.C.M. 1947. The section cited is applicable to all sales and use taxes imposed under this act.

Period of limitations.

Section 32. **Period of limitations.** The taxes imposed by this act shall be assessed within three (3) years from December 31 of the year in which the taxes became due and payable; but in the case of a false or fraudulent return with intent to evade payment of the taxes imposed by this act, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the collection of such taxes may be begun without assessment at any time within six (6) years from December 31 of the year in which the taxes became due and payable.

Violation of act by dealer a misdemeanor.

Section 33. **Violation of act by dealer a misdemeanor.** Any dealer subject to the provisions of this act who fails or refuses to furnish any return herein required to be made, or fails or refuses to furnish a supplemental return or other data required by the state board of equalization, or who makes a false or fraudulent return with intent to evade the tax hereby levied, or who makes a false or fraudulent claim for refund, or who gives or knowingly receives a false or fraudulent exemption certificate, or who violates any other provision of this act. punishment for which is not otherwise herein provided, is guilty of a misdemeanor.

Administration.

Section 34. **Administration.** The state board of equalization shall administer and enforce the assessment and collection of the taxes and penalties imposed by this act. It shall design, prepare, print, and furnish to all dealers, or make available to them, all necessary forms for filing returns together with instructions to assure a full collec-

HeinOnline -- 1971 vol. II 1874 1971

tion from dealers and an accounting for the taxes due, but failure of any dealer to receive or procure forms or instructions, or both, shall not relieve him from the payment of the tax at the time and in the manner herein provided.

Rules and regulations.

Section 35. **Rules and regulations.** The state board of equalization may make and publish reasonable rules and regulations not inconsistent with this act, other applicable laws, or the constitution of this state, or of the United States, for the enforcement of the provisions of this act and the collection of the revenue hereunder.

Administration of oaths.

Section 36. **Administration of oaths.** The state board of equalization and such other officers or employees of the department of taxation as the state board of equalization authorizes in writing, may administer oaths for the purpose of enforcing and administering the provisions of this act.

Secrecy of information.

Section 37. **Secrecy of information.** Except in accordance with proper judicial order, or as provided by law, it is unlawful for the state board of equalization (or any agent), auditor, or other officer or employee to divulge or make known in any manner the amount of sales, the amount of tax paid, or any other particulars set forth or disclosed in any return required by this act. Nothing in this act shall be construed to prohibit the publication of statistics so classified as to prevent the identity of particular reports or returns and the items thereof, or the inspection by the legal representative of this state of the report or return of any taxpayer who applies for a review or appeal from any determination or against whom an action or proceeding is about to be instituted or has been instituted to recover any tax or penalty imposed by this act.

Exchange of information with other tax officials.

Section 38. **Exchange of information with other tax officials.** The state board of equalization may furnish to the tax officials of any other state and its political subdivision, the political subdivisions of this state, the District of Columbia, and the United States and its territories, any information contained in tax returns and reports and related schedules and documents filed pursuant to the tax laws of this state, or in the report of an audit or investigation made with respect thereto; Provided,

HeinOnline -- 1971 vol. II 1875 1971

that said jurisdictions grant similar privileges to this state and that the information is to be used only for tax purposes.

Sales tax fund—creation—sales tax refund fund—appropriations.

Section 39. **Sales tax fund—creation—sales tax refund fund—appropriations.** (a) There is hereby created in the office of the state treasurer and subject to his control and custody a fund to be known and designated as the "Sales and Use Tax Fund".

(b) All moneys collected under this act shall be paid by the state board of equalization into the sales and use tax fund.

(c) A portion of the amount deposited in the "Sales and Use Tax Fund" not exceeding two hundred thousand dollars ($200,000) to June 30, 1972 and not exceeding seven hundred fifty thousand dollars ($750,000) in any fiscal year thereafter shall be retained and is hereby appropriated as a "Sales and Use Tax Administration and Enforcement Fund" for the purposes of administration and enforcement of this act; there shall be retained in the "Sales and Use Tax Fund" such amounts as are necessary for the purpose of repaying overpayments made under this act, for the purpose of paying any other erroneous receipts illegally assessed, collected, or which are excessive in amount, and for the payment of the income tax credits or refunds otherwise provided in this act and there is hereby appropriated from this fund so much as may be necessary for the payment of said refunds and credits.

The balance shall be paid into the general fund of the state of Montana.

Increase income surtax.

Section 40. **Increased income surtax.** Section 84-4902.1, R.C.M. 1947, is amended to read as follows:

"84-4902.1. **Surtax.** After the amount of tax liability has been computed for *all taxable years commencing on or after December 31, 1970 but before December 31, 1972,* each person filing a Montana individual income tax return shall add, as a surtax, *forty percent (40%)* of the tax liability, and the amount so arrived at is the amount due the state of Montana. *Thereafter the surtax shall be ten percent (10%) of the tax liability.*"

HeinOnline -- 1971 vol. II 1876 1971

Refund or credit for sales and use tax upon food, drugs and other related items.

Section 41. Refund or Credit for Sales and Use Tax upon Food, Drugs and Other Related Items. The state board of equalization shall allow a refund or credit to persons who file individual income tax returns under the Montana Income Tax Act (sections 84-4901 et seq. R.C.M. 1947) for taxable years beginning on and after January 1, 1972 and who have continuously resided in this state for the twelve (12) months ending on the last day of their taxable year. The refund shall be made for each exemption, including that for blindness or age sixty-five (65) years or over, for which a deduction is claimed on the taxpayer's Montana income tax return except that no refund or credit may be claimed for an exemption which represents a person filing a Montana income tax return claiming a deduction for his own personal exemption. In no event shall more than one (1) taxpayer be allowed refund or credit for the same exemption. The refund or credit shall be computed by multiplying ten dollars ($10) times each exemption for which a deduction is allowable. The refund or credit shall be allowed each person who files an individual income tax return and shall be paid out of monies collected under the sales and use tax hereinabove provided for, and as follows:

(1) if no income tax is due the state, the refund shall be paid to the person filing the return;

(2) if income tax due is less than the computed amount, the difference between the income tax due and the computed amount shall be paid to the person filing the return;

(3) if income tax due is greater than the computed amount, the computed amount shall be allowed as a credit.

Referendum.

Section 42. **Referendum.** There shall be a referendum upon this act except for sections 40 and 46 to be submitted to the electors of this state at a special general election to be held November 2, 1971 for their approval or rejection.

Ballot.

Section 43. The referendum shall be submitted to the electors on an official ballot which shall contain the title of this act and the number of the referendum. The question shall be presented in the following form:

HeinOnline -- 1971 vol. II 1877 1971

☐ For referendum measure no. .....
For reduction of the 40% Income Tax Surtax to 10% and for the enactment of the 2% Sales and Use tax.

☐ Against referendum measure no. .....
Against reduction of the 40% Income Tax Surtax to 10% and against enactment of the 2% Sales and Use tax.

Reduced income surtax.

Section 44. **Reduced Income Surtax.** If the majority of the electors vote in the affirmative on the referendum provided for in sections 42 and 43, section 84-4902.1, R.C.M. 1947, shall be amended to read as follows:

Surtax.

"84-4902.1. **Surtax.** After the amount of tax liability has been computed for *all taxable years commencing on or after December 31, 1970 but before December 31, 1971,* each person filing a Montana individual income tax return shall add, as a surtax, *forty percent (40%)* of the tax liability and the amount so arrived at is the amount due the state of Montana. *Thereafter the surtax shall be ten percent (10%) of the tax liability.*"

Repealing clause.

Section 45. **Repealer.** All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 46. **Effective date.**

(a) Section 40 of this act shall be effective upon passage and approval.

(b) If approved by a majority of the voters voting for and against the referendum herein provided the Sales and Use Tax shall be imposed upon all taxable transactions occurring on and after January 1, 1972.

Approved July 1, 1971.

HeinOnline -- 1971 vol. II 1878 1971

APPROPRIATIONS

ENACTED BY THE

Second Extraordinary Session

OF THE

Forty-Second Legislative Assembly

STATE OF MONTANA

1971

HeinOnline -- 1971 vol. II 1879 1971

HeinOnline -- 1971 vol. II 1880 1971

APPROPRIATION MEASURES

EXTRAORDINARY SESSION II HOUSE BILL NO. 1

An Act Appropriating Money for the Operation of Extraordinary Session II of the Forty-Second Legislative Assembly; Specifying an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. One hundred seventy-five thousand dollars ($175,000) is appropriated from the general fund for the operation of extraordinary session II of the forty-second legislative assembly.

Section 2. This act is effective on its passage and approval.

Approved June 10, 1971.

EXTRAORDINARY SESSION II HOUSE BILL NO. 3

An Act to Appropriate Monies to Certain State Institutions and Agencies for the Biennium Ending June 30, 1973.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated: (1) The term "operation" means all ordinary and necessary expenditures for operation of the institution to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, employee's retirement, industrial accident insurance, authorized health insurance, and unemployment compensation.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

HeinOnline -- 1971 vol. II 1881 1971

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized.

(5) The term "agency" includes all state offices, departments, divisions, boards, commissions, councils, committees, institutions, university units, and other entities or instrumentalities of state government.

(6) The term "program" means a segment that includes a combination of planned efforts to provide a service.

(7) The term "approved budget amendment" means approval by the governor of a request submitted through the director of the budget division to:

(a) obtain financing for a new or expanded program from funds which were not available for consideration by the legislature but which have become available from a source other than state's general fund; or

(b) transfer appropriations, including general fund appropriations, between programs within a state agency; or

(c) expend remaining balances of the first fiscal year appropriations, including general fund appropriations, during the second fiscal year of the biennium, or

(d) change any agency operation plan.

Section 2. The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made. Except for amounts legally encumbered at the end of each fiscal year the unexpended balance of any appropriation shall revert to the fund from which it was appropriated. In case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year by approved budget amendment.

Section 3. The appropriations in this act are intended to provide for all expenditures for: (1) personal services;

(2) all other ordinary and necessary expenditures for the operation of the agency and the program to which the appropriation applies;

HeinOnline -- 1971 vol. II 1882 1971

(3) repairs and maintenance, other than major alterations of existing buildings; and

(4) the purchase or replacement of capital items other than expenditures for the construction, improvement, or furnishing of buildings or purchase of buildings or land unless specifically authorized.

Section 4. Financing for new or expanded programs from sources other than the general fund may be made available by approved budget amendment.

Section 5. Subject to law, each agency, with the exception of elected officials and their employees, shall submit for review and approval to the director of the budget division, on or before July 1 of each fiscal year, an operational plan within the limits of appropriations which includes the position and salary of all officers and employees, and no change shall be made in said operational plan without an approved budget amendment as provided in section 1 (7) above.

The review and approval power of the budget director relating to the operational plan shall be limited to determining whether the plan is within appropriation limitations.

The salary of the chief administrator of each agency, commission, board, or institution shall be determined by the appointing authority subject to the provisions established in section 1 (7) above.

Section 6. No new program may be established and no existing program may be expanded beyond the scope of the programs approved by the legislature in the 1973 biennial budget, unless the new program or the program expansion and its method of financing is approved by the governor after presentation through the director of the budget division.

Section 7. Transfers of appropriated funds between programs of an agency may be made only by an approved budget amendment.

Section 8. If the operation of a state agency is financed by an appropriation or appropriations from the general fund as well as by appropriation from other sources, the funds provided by appropriation from the general fund shall be decreased by the amount that the funds received from other sources exceeds the amount from other sources appropriated by the legislature in the 1973 biennial budget, provided that: (1) the decrease does not jeopardize the receipt of the funds to be received from other sources; and

HeinOnline -- 1971 vol. II 1883 1971

(2) this section shall not apply to any excess funds if they are to be expended for a new or expanded program approved by the governor upon a request submitted to him through the director of the budget division.

Section 9. When an agency receives federal funds as a reimbursement of a prorated share of administrative cost attributed to the operations of all state agencies involved, the federal funds shall be deposited into the general fund unless usage of the federal funds is restricted by federal provisions.

Section 10. The governor after declaring an emergency, may reduce any appropriation by not more than fifteen percent (15%) except appropriations for: (1) payment of interest and retirement of the state debt;

(2) operation of the legislature;

(3) public schools;

(4) the judiciary; or

(5) salaries of elected officials, during their term of office.

Section 11. An informational copy of each approved budget amendment shall be filed with the legislative auditor. The director of the budget division shall submit to the succeeding legislature a summary of all approved budget amendments made during the biennium together with the supporting data.

Section 12. If any section, subsection, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Section 13. Minimum salaries of employees in the department of institutions, with the exception of the board of pardons, shall be determined by the "Compensation and Classification Plan" of the department of institutions dated March 10, 1971 and on file with the budget division of the department of administration. The amount of salary increases shall correlate to said schedule and in no case shall exceed the percentage differences between the established minimum for the classification in fiscal year 1970 and that minimum established by the aforementioned "Compensation and Classification Plan" dated March 10, 1971 except that, within the limits of the appropriation for personal services, each employee, after evaluation, may be entitled to a minimum of a one-step increase each year of the biennium.

HeinOnline -- 1971 vol. II 1884 1971

Section 14. The following monies are appropriated for the biennium ending June 30, 1973:

	For the fiscal year ending June 30, 1972	For the fiscal year ending June 30, 1973
DEPARTMENT OF INSTITUTIONS		
From the General Fund		
Department Operations Program		
(a) Personal services	$ 102,217	$ 107,124
(b) Operation and capital	40,784	41,074
Reimbursement Program		
(a) Personal services	79,104	82,903
(b) Operation and capital	22,525	21,075
Aftercare Program		
(a) Personal services	112,892	118,311
(b) Operation and capital	149,021	148,615
Board Program		
(a) Operation	5,000	5,000
BOULDER RIVER SCHOOL AND HOSPITAL		
Administration Program		
From the general fund for:		
(a) Personal services	129,306	135,512
(b) Operation and capital	48,800	49,300
General Services and Physical Plant Program		
From the general fund for:		
(a) Personal services	664,764	696,496
(b) Operation and capital	512,200	439,800
Education and Training Program		
From the general fund for:		
(a) Personal services	200,365	209,983
(b) Operation and capital	7,800	7,800

HeinOnline -- 1971 vol. II 1885 1971

From the federal and private revenue fund, vocational rehabilitation account for:		
(a) Personal services	41,800	43,889
(b) Operation and capital	258	40
Clinical Services Program		
From the general fund for:		
(a) Personal services	255,960	268,246
(b) Operation and capital	142,143	132,143
From the federal and private revenue fund, education expansion account for:		
(a) Personal services	104,110	104,110
(b) Operation and capital	8,057	8,057
Nursing Services Program		
From the general fund for:		
(a) Personal services	1,765,000	1,854,606
(b) Operation and capital	60,200	55,200
Public Service Career Program from the federal and private revenue fund, Boulder River School and Hospital account for:		
(a) Personal services	20,851	.....
(b) Operation and capital	57,610	.....
CENTER FOR THE AGED		
From the general fund for:		
Administration Program		
(a) Personal services	48,009	50,314
(b) Operation and capital	3,550	3,800
Care and Treatment Program		
(a) Personal services	145,300	152,275
(b) Operation and capital	13,100	13,100

HeinOnline -- 1971 vol. II 1886 1971

General Services and Physical Plant Program		
(a) Personal services	32,546	34,108
(b) Operation and capital	75,800	77,550
CHILDREN'S CENTER		
Administration Program		
From the general fund for:		
(a) Personal services	38,285	40,123
(b) Operation and capital	8,400	8,400
Counseling and Guidance Program Program		
From the general fund for:		
(a) Personal services	315,774	330,931
(b) Operation and capital	5,000	4,500
General Services and Physical Plant Program from the general fund for:		
(a) Personal services	153,463	160,829
(b) Operation and capital	134,700	138,200
Education Program from the general fund for:		
(a) Personal services	92,285	96,715
(b) Operation and capital	4,700	4,700
From the federal and private revenue fund, Children's Center account for:		
(a) Personal services	31,532	31,532
(b) Operation and capital	1,218	1,218
Pursuant to this act, it is the intent that the population of the Children's Center not exceed one hundred (100) at any time during the biennium		
EASTMONT TRAINING CENTER		
Administration Program		
From the general fund for:		
(a) Personal services	24,916	26,112

HeinOnline -- 1971 vol. II 1887 1971

(b) Operation and capital	6,275	6,275
Care and Custody Program		
From the general fund for:		
(a) Personal services	67,125	70,347
(b) Operation and capital	3,200	2,850
From the federal and private revenue fund, Eastmont Training Center account for:		
(a) Personal services	6,667	3,530
General Services and Physical Plant Program		
From the general fund for:		
(a) Personal services	11,670	12,230
(b) Operation and capital	26,275	22,525
Education and Rehabilitation Program		
From the general fund for:		
(a) Personal services	53,244	58,516
(b) Operation and capital	5,200	5,350
From the federal and private revenue fund, Eastmont Training Center account for:		
(a) Personal services	5,238	2,773
GALEN STATE HOSPITAL		
From the general fund for:		
Administration Program		
(a) Personal services	119,956	125,714
(b) Operation and capital	23,700	22,850
Care and Treatment Program		
(a) Personal services	803,742	842,322
(b) Operation and capital	84,500	84,500
General Services and Physical Plant Program		
(a) Personal services	734,079	769,314
(b) Operation and capital	239,500	242,500

HeinOnline -- 1971 vol. II 1888 1971

MOUNTAIN VIEW SCHOOL

Administration Program		
From the general fund for:		
(a) Personal services	50,243	52,654
(b) Operation and capital	10,315	9,650
Care and Custody Program		
From the general fund for:		
(a) Personal services	194,308	203,635
(b) Operation and capital	29,300	29,300
From the federal and private revenue fund, Mountain View School account for:		
(a) Personal services	5,087	5,389
(b) Operation and capital	4,127	3,945
Education and Training Program		
From the general fund for:		
(a) Personal services	78,703	82,481
(b) Operation and capital	4,250	4,250
From the federal and private revenue fund, Mountain View School account for:		
(a) Personal services	5,000	5,000
General Services and Physical Plant Program from the general fund for:		
(a) Personal services	82,987	86,971
(b) Operation and capital	56,825	55,850
Pursuant to this act it is the intent that the population of the Mountain View School be restricted to a daily average population of seventy-five (75) girls for each fiscal year of the biennium.		

PINE HILLS SCHOOL

Administration Program		
From the general fund for:		
(a) Personal services	78,849	82,633

HeinOnline -- 1971 vol. II 1889 1971

(b) Operation and capital	16,025	16,025
Care and Custody Program From the general fund for:		
(a) Personal services	256,227	269,726
(b) Operation and capital	26,000	26,000
From the federal and private revenue fund, Pine Hills School interest and income account for:		
(a) Personal services	25,000	25,000
General Services and Physical Plant Program from the general fund for:		
(a) Personal services	155,290	163,223
(b) Operation and capital	138,100	138,100
From the federal and private revenue fund, Pine Hills School interest and income account for:		
(a) Personal services	10,000	10,000
Education and Training Program from the general fund for:		
(a) Personal services	206,251	216,151
(b) Operation and capital	13,650	13,150
From the federal and private revenue fund, Pine Hills School account for:		
(a) Personal services	30,000	30,000
Farm Program From the general fund for:		
(a) Personal services	32,261	33,809
(b) Operation and capital	14,750	14,750
Clinical Services Program from the general fund for:		
(a) Personal services	116,718	122,320
(b) Operation and capital	8,750	8,750
Pursuant to this act it is the intent that that the population of the Pine Hills School be restricted to a daily average		

HeinOnline -- 1971 vol. II 1890 1971

population of one hundred twenty (120) boys for each fiscal year of the biennium.

STATE PRISON

Administration Program from the general fund for:		
(a) Personal services	122,180	128,045
(b) Operation and capital	25,600	25,600
Care and Custody Program From the general fund for:		
(a) Personal services	1,143,191	1,201,665
(b) Operation and capital	95,500	95,500
From the earmarked revenue fund, prison industrial account for:		
(a) Personal services	75,000	75,000
From the federal and private revenue fund, prison account for:		
(a) Personal services	21,200	21,200
General Services Program From the general fund for:		
(a) Personal services	270,300	283,275
(b) Operation and capital	284,279	302,000
From the earmarked revenue fund, prison industrial account:		
(a) Operation and capital	17,721	.....
Education Program From the gentral fund for:		
(a) Personal services	48,545	50,875
(b) Operation and capital	1,800	1,800
Ranch and Dairy Program From the general fund for:		
(a) Personal services	34,024	132,366
(b) Operation and capital	122,250	206,250

HeinOnline -- 1971 vol. II 1891 1971

From the earmarked revenue fund, prison industrial account for:		
(a) Personal services	92,279	.....
(b) Operation and capital	115,000	25,000
Bureau of Identification Program From the general fund for:		
(a) Personal services	47,051	49,309
(b) Operation and capital	6,250	6,300
From the federal and private revenue fund, prison account for:		
(a) Operation and capital	3,000	.....
SWAN RIVER YOUTH FOREST CAMP		
Administration Program From the general fund for:		
(a) Personal services	39,678	41,583
(b) Operation and capital	8,950	6,150
Counseling and Supervision Program From the general fund for:		
(a) Personal services	45,127	55,675
(b) Operation and capital	8,600	8,600
From the federal and private revenue fund, Swan River Youth Forest Camp account for:		
(a) Personal services	50,000	44,000
(b) Operation and capital	12,000	.....
Education and Training Program From the general fund for:		
(a) Operation and capital	23,625	23,625
General Services Program From the general fund for:		
(a) Personal services	21,367	22,393
(b) Operation and capital	47,300	39,300

HeinOnline -- 1971 vol. II 1892 1971

VETERANS' HOME

Administration Program		
From the general fund for:		
(a) Personal services	27,094	28,394
(b) Operation and capital	4,700	4,900
Care and Services Program		
From the general fund for:		
(a) Personal services	56,057	62,420
(b) Operation and capital	66,528	69,048
From the federal and private revenue fund, Soldier's Home account for:		
(a) Personal services	76,500	76,500

Pursuant to this act, it is the intent that the population will not exceed one hundred (100) domiciliary care residents.

WARM SPRINGS STATE HOSPITAL

Administration Program		
From the general fund for:		
(a) Personal services	270,732	283,727
(b) Operation and capital	69,000	69,000
Care and Treatment Program		
From the general fund for:		
(a) Personal services	3,579,178	3,750,633
(b) Operation and capital	256,500	256,500
General Services and Physical Plant Program from the general fund for:		
(a) Personal services	1,049,531	1,099,908
(b) Operation and capital	804,500	824,500
Drug Treatment Program		
From the general fund:	35,000	34,887

If not matched by federal money this appropriation shall revert to the general fund at the end of each fiscal year.

HeinOnline -- 1971 vol. II 1893 1971

Canteen and Recreation Hall Program From the revolving fund, Warm Springs recreation account:	132,356	139,413
Alcoholic Treatment Program From the general fund for:		
(a) Personal services	89,637	93,940
(b) Operation and capital	5,600	5,100

COMMUNITY MENTAL HEALTH CENTERS AND MENTAL HYGIENE CLINICS

(a) From the general fund for the state mental hygiene clinic program and community mental health centers for operation, capital and personal services	500,000	500,000
(b) From the federal and private revenue fund, mental hygiene account for: personal services	65,000	65,000
(c) From the federal and private revenue fund, mental hygiene account for the community health centers programs, such funds that are available or become available for support of this program.		
(d) After receipt of federal funds into the regional mental health centers program, the remaining cost of operating said programs shall be shared on an equal basis by the state of Montana and the regional mental health boards and participating counties.		

BOARD OF EUGENICS

Administration Program From the general fund:	1,000	1,000

REGISTRAR OF MOTOR VEHICLES

From the earmarked revenue fund,

HeinOnline -- 1971 vol. II 1894 1971

motor vehicle account for:		
Vehicle Registration		
(a) Personal services	369,037	384,604
(b) Operation and capital	188,540	190,840
Plate Manufacture		
(a) Personal services and operation and capital	513,720	25,700
BOARD OF PARDONS		
From the general fund for:		
Adult Probation and Parole		
(a) Personal services	168,251	174,166
(b) Operation and capital	55,599	53,684
From the federal and private revenue fund, board of pardons account for:		
Adult Probation and Parole		
(a) Personal services	23,100	7,600
(b) Operation and capital	7,400	7,400

Approved June 29, 1971.

EXTRAORDINARY SESSION II HOUSE BILL NO. 6

An Act to Appropriate Moneys to Various State Agencies for the Biennium Ending June 30, 1973; and Providing for Other Matters Relating to the Appropriations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) "Agency" includes all state offices, departments, divisions, boards, commissions, councils, committees, institutions, university units, and other entities or instrumentalities of state government.

(2) "Program" means a segment that includes a combination of planned efforts to provide a service.

(3) "Approved budget amendment" means approval by the governor of a request submitted through the director of the budget division to:

(a) obtain financing for new or expanded program from funds

HeinOnline -- 1971 vol. II 1895 1971

which were not available for consideration by the legislature but which have become available from a source other than state's general fund; or

(b) transfer appropriations, including general fund appropriations, between programs within a state agency; or

(c) expend remaining balances of the first fiscal year appropriations, including general fund appropriations, during the second fiscal year of the biennium; or

(d) change any agency operation plan.

Section 2. The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made. Except for amounts legally encumbered at the end of each fiscal year the unexpended balance of any appropriation shall revert to the fund from which it was appropriated. In case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year by approved budget amendment.

Section 3. The appropriations in this act are intended to provide for all expenditures for:

(1) personal services;

(2) all other ordinary and necessary expenditures for the operation of the agency and the program to which the appropriation applies;

(3) repairs and maintenance, other than major alterations of existing buildings; and

(4) the purchase or replacement of capital items other than expenditures for the construction, improvement, or furnishing of buildings or purchase of buildings or land unless specifically authorized.

Section 4. Financing for new or expanded programs from sources other than the general fund may be made available by approved budget amendment.

Section 5. Subject to law, each agency, with the exception of elected officials and their employees, shall submit for review and approval to the director of the budget division, on or before July 1 of each fiscal year, an operational plan within the limits of appropriations which includes the position and salary of all officers and employees, and no change shall be made in said operational plan without an approved budget amendment as provided in section 1 (3) above.

HeinOnline -- 1971 vol. II 1896 1971

The review and approval power of the budget director relating to the operational plan shall be limited to determining whether the plan is within appropriation limitations.

The salary of the chief administrator of each agency, commission, board, or institution shall be determined by the appointing authority subject to the provisions established in section 1 (3) above.

Section 6. No new program may be established and no existing program may be expanded beyond the scope of the programs approved by the legislature in the 1973 biennial budget, unless the new program or the program expansion and its method of financing is approved by the governor after presentation through the director of the budget division.

Section 7. Transfers of appropriated funds between programs of an agency may be made only by an approved budget amendment.

Section 8. If the operation of a state agency is financed by an appropriation or appropriations from the general fund as well as by appropriation from other sources, the funds provided by appropriation from the general fund shall be decreased by the amount that the funds received from other sources exceeds the amount from other sources appropriated by the legislature in the 1973 biennial budget, provided that:

(1) the decrease does not jeopardize the receipt of the funds to be received from other sources; and

(2) this section shall not apply to any excess funds if they are to be expended for a new or expanded program approved by the governor upon a request submitted to him through the director of the budget division.

Section 9. When an agency receives federal funds as a reimbursement for a pro-rated share of administrative cost attributed to the operations of all state agencies involved, the federal funds shall be deposited into the general fund unless usage of the federal funds is restricted by federal provisions.

Section 10. The governor after declaring an emergency, may reduce any appropriation by not more than fifteen percent (15%) except appropriations for:

(1) payment of interest and retirement of the state debt;

(2) operation of the legislature;

(3) public schools;

(4) the judiciary; or

(5) salaries of public officers, during their term of office.

HeinOnline -- 1971 vol. II 1897 1971

Section 11. An informational copy of each approved budget amendment shall be filed with the legislative auditor. The director of the budget division shall submit to the succeeding legislature a summary of all approved budget amendments made during the biennium together with the supporting data.

Section 12. If any section, subsection, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Section 13. The following moneys are appropriated for the biennium ending June 30, 1973:

	For the fiscal year ending June 30, 1972	For the fiscal year ending June 30, 1973
Legislative Branch		
LEGISLATIVE AUDITOR		
Audit and examination program		
From the general fund	$ 250,000	$ 275,000
LEGISLATIVE COUNCIL		
Legislative research program		
From the general fund	87,000	74,000
Legislative services program		
From the general fund	.....	29,000
Statutory information retrieval system		
From the general fund	21,000	.....
From the revolving fund statutory information retrieval system account	2,500	.....
ENVIRONMENTAL QUALITY COUNCIL		
From the federal and private revenue fund, any and all monies available are hereby appropriated.		
COMMISSION ON UNIFORM STATE LAWS		
Commission on Uniform State Laws program		
From the general fund	2,100	2,100

HeinOnline -- 1971 vol. II 1898 1971

Judicial Branch

DISTRICT JUDGES

District Judges program		
From the general fund	668,200	669,400

LAW LIBRARY

Central operation program		
From the general fund	32,000	31,900

REVISED CODES OF MONTANA

Revised codes of Montana program		
From the general fund	35,000	.....

SUPREME COURT

Maintenance of supreme court program		
From the general fund	259,100	261,600
Boards and commissions program		
From the general fund	9,100	9,900

Executive Branch

General Government

ATTORNEY GENERAL

Legal services program		
From the general fund	227,000	226,000
Escheated estates program		
From the earmarked revenue fund, escheated estates account	14,919	15,244
Criminal investigator program		
From the general fund	94,000	88,700
Teletypewriter communications program		
From the general fund	47,800	78,300
From the federal and private revenue fund, teletypewriter communications account	137,383	108,492
From the revolving fund, teletype system account	124,162	126,684

HeinOnline -- 1971 vol. II 1899 1971

AUDITOR

Management and control program		
From the general fund	145,200	161,600
From the revolving fund, central payroll account	51,300	56,300
Fire marshal program		
From the general fund	96,000	100,000
Administrative support program		
From the general fund	52,700	56,600
Insurance regulation and licensing program		
From the general fund	139,200	142,800
Investment regulation and licensing program		
From the general fund	33,000	33,000

From the earmarked revenue fund, firemen's disability account, for the distribution of premium tax collections as provided in sections 11-1919 and 11-2030, R.C.M. 1947, an appropriation sufficient to meet the requirements provided by law.

From the earmarked revenue fund, police revenue account, for the distribution of premium tax collections as provided in section 11-1834, R.C.M. 1947, an appropriation sufficient to meet the requirements as provided by law. The state auditor shall not distribute any of the moneys hereby appropriated to any city or town, having a police retirement system established under the provisions of the metropolitan police law, which is not levying at least a portion of the maximum levy required by law for the fund for the payment of police officers on the reserve list. However, this restriction shall not apply to cities or towns which have on deposit in the fund for payment of salaries of reserve police officers an amount of money equal to the product of seven thousand dollars ($7,000) multiplied by the number of active members of the police department of the city or town. Nor shall the state auditor distribute any of the moneys hereby appropriated to any city or town having a police retirement system established under the provisions of the metropolitan police law, which is not collecting five percent (5%) of the monthly wage from each active member of its police department, unless the city or town has on deposit an amount of money equal to the product of seven thousand dollars ($7,000) multiplied by the number of active members of the police department of such city or town.

HeinOnline -- 1971 vol. II 1900 1971

	For the fiscal year ending June 30, 1972	For the fiscal year ending June 30, 1973
COUNTY ATTORNEYS		
Legal services program		
From the general fund	$ 206,800	$ 207,600
BOARD OF EXAMINERS		
Examination and review program		
From the general fund	64,000	68,000
Extradition and transportation of prisoners program		
From the general fund	30,000	30,000
Fire and casualty insurance program		
From the general fund	178,000	182,400
From the earmarked revenue fund, university millage account	227,600	238,000
Interin project program		
From the general fund	10,500	11,250
GOVERNOR		
Executive office program		
From the general fund	192,500	202,500
Mansion maintenance program		
From the general fund	30,750	31,750
Federal-state coordinator program		
From the general fund	50,000	55,000
Crime control commission program		
From the general fund	70,000	55,000
From the federal and private revenue fund, law enforcement planning committee account	230,000	270,000
Juvenile delinquency account	35,000	36,000
Action grant program		
From the general fund	.....	140,000
Executive branch reorganization program		
From the general fund	33,760	34,500

HeinOnline -- 1971 vol. II 1901 1971

From the federal and private revenue fund, executive branch reorganization account	67,000	69,000
Highway traffic safety program From the earmarked revenue fund, highway account	28,000	29,000
From the federal and private revenue fund, traffic safety coordinator account	38,000	39,000
Economic opportunity program From the general fund	13,226	13,921
From the federal and private revenue fund, OEO coordinator account	52,000	55,000
SECRETARY OF STATE		
Records management program From the general fund	168,000	197,000
TREASURER		
Treasury management program From the general fund	76,000	79,000
ABSTRACTORS BOARD OF EXAMINERS		
Abstractors licensing and regulation program From the earmarked revenue fund, abstractors' board account	1,205	1,195
BOARD OF ARCHITECTURAL EXAMINERS		
Architect licensing and regulation program From the earmarked revenue fund, architectural examiners' account	6,497	6,484
ATHLETIC COMMISSION		
Licensing and regulation program From the earmarked revenue fund, veterans memorial account	1,157	1,047

HeinOnline -- 1971 vol. II 1902 1971

BOARD OF BARBER EXAMINERS		
Barbers licensing and examination program		
From the earmarked revenue fund, barbers examiners' account	10,420	9,870
BOARD OF CHIROPRACTIC EXAMINERS		
Licensing and regulation program		
From the earmarked revenue fund, chiropractic examiners' account	3,400	3,400
EXAMINING BOARD OF COSMETOLOGY		
Licensing and regulation program		
From the earmarked revenue fund, cosmetology board account	46,747	47,000
COUNTY PRINTING COMMISSION		
Printing standards program		
From the general fund	1,000	1,000
BOARD OF DENTAL EXAMINERS		
Dentist licensing and regulation program		
From the earmarked revenue fund, dental examiners' account	6,615	6,549
ELECTRICAL BOARD		
Licensing and regulation program		
From the earmarked revenue fund, electrical board account	114,569	121,487
BOARD OF FOOD DISTRIBUTORS		
Licensing and regulation program		
From the earmarked revenue fund, food distributors' account	26,104	26,190
BOARD OF HEARING AID DISPENSERS		
Licensing and regulation program		

HeinOnline -- 1971 vol. II 1903 1971

From the earmarked revenue fund, board of hearing aid dispensers' account	2,900	2,850
HORSE RACING COMMISSION		
Licensing and regulation program From the earmarked revenue fund, horse racing commission account	23,232	22,450
BOARD OF MASSAGE EXAMINERS		
Licensing and regulation program From the earmarked revenue fund, massage board account	3,215	3,115
BOARD OF MEDICAL EXAMINERS		
Medical practitioners licensing and regulation program From the earmarked revenue fund, board of medical examiners account	22,600	22,200
BOARD OF MORTICIANS		
Morticians licensing and regulation program From the earmarked revenue fund, morticians' board account	5,035	4,835
BOARD OF NURSING		
Nursing licensing and regulation program From the earmarked revenue fund, board of nursing account	53,103	54,725
BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS		
Licensing and examining program From the earmarked revenue fund, state board of examiners for nursing home administrators account	10,288	10,188
BOARD OF EXAMINERS IN OPTOMETRY		
Licensing and regulation program From the earmarked revenue fund, optometry examiners' account	3,150	2,950

HeinOnline -- 1971 vol. II 1904 1971

BOARD OF OSTEOPATHIC EXAMINERS		
Licensing and regulation program		
From the earmarked revenue fund, osteopathic examiners' account	400	400
BOARD OF PHARMACY		
Licensing and regulation program		
From the earmarked revenue fund, board of pharmacy account	22,081	22,634
BOARD OF PLUMBING EXAMINERS		
Plumbers licensing and regulation program		
From the earmarked revenue fund, plumbing examiners' account	30,946	31,345
BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS		
Licensing and regulation program		
From the earmarked revenue fund, professional engineers account	21,553	21,626
BOARD OF PUBLIC ACCOUNTANCY		
Licensing and regulation program		
From the earmarked revenue fund, board of public accountancy account	26,990	28,840
BOARD OF RAILROAD COMMISSIONERS		
Railroad and public service regulation program		
From the general fund	352,000	352,000
REAL ESTATE COMMISSION		
Licensing and regulation program		
From the earmarked revenue fund, real estate account	52,205	53,579

HeinOnline -- 1971 vol. II 1905 1971

SANITARIANS' REGISTRATION COUNCIL		
Sanitarians' licensing and regulation program		
From the earmarked revenue fund, sanitarians' registration account	495	445
BOARD OF VETERINARY MEDICAL EXAMINERS		
Licensing and regulation program		
From the earmarked revenue fund, veterinary medical examiners' account	1,605	1,755
BOARD OF CERTIFICATION FOR WATER AND WASTE WATER OPERATORS		
Licensing and regulation program		
From the earmarked revenue fund, board of certification for water and waste water operators' account	7,925	8,194
WATER WELL CONTRACTORS' EXAMINING BOARD		
Licensing and regulation program		
From the earmarked revenue fund, water well contractors' account	5,946	5,799
BOARD OF PSYCHOLOGISTS		
Licensing and regulation program		
From the earmarked revenue fund, board of psychologists' account	1,500	1,000
PASSENGER TRAMWAY SAFETY BOARD		
Registration and inspection program		
From the earmarked revenue fund, passenger tramway safety account	1,500	1,500

Approved June 29, 1971.

HeinOnline -- 1971 vol. II 1906 1971

EXTRAORDINARY SESSION II HOUSE BILL NO. 11

An Act Appropriating Money from the General Fund to the Community College Districts of Montana for their Operation and Maintenance During the Biennium Ending June 30, 1973, in Accordance with Section 75-8121, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following money is appropriated from the general fund to the community college districts of Dawson college, Flathead valley community college, and Miles community college, for the operation of said colleges for the biennium ending June 30, 1973. The money is to be transferred from the general fund to the county treasurers of the respective counties in which the community college districts are located for deposit and use by the colleges:

(1) For the fiscal year ending June 30, 1972:

Dawson college	$ 198,964
Flathead valley community college	364,371
Miles community college	201,388
1971-1972 total	$ 764,723

(2) For the fiscal year ending June 30, 1973:

Dawson college	$ 227,339
Flathead valley community college	450,526
Miles community college	224,842
1972-1973 total	$ 902,707
Total for biennium	$1,667,430

Section 2. These moneys shall be transferred from the general fund to the county treasurers of the respective counties on July 1 of each fiscal year.

Approved June 29, 1971.

EXTRAORDINARY SESSION II HOUSE BILL NO. 23

An Act to Appropriate Moneys to Various State Agencies for the Biennium Ending June 30, 1973; and Providing for Other Matters Relating to the Appropriations.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1971 vol. II 1907 1971

Section 1. For the purpose of this act, unless otherwise stated:

(1) "Agency" includes all state officers, departments, divisions, boards, commissions, councils, committees, institutions, university units, and other entities or instrumentalities of state government.

(2) "Program" means a segment that includes a combination of planned efforts to provide a service.

(3) "Approved budget amendment" means approval by the governor of a request submitted through the director of the budget division to:

(a) obtain financing for new or expanded program from funds which were not available for consideration by the legislature but which have become available from a source other than state's general fund; or

(b) transfer appropriations, including general fund appropriations, between programs within a state agency; or

(c) expend remaining balances of the first fiscal year appropriations, including general fund appropriations, during the second fiscal year of the biennium; or

(d) change any agency operation plan.

Section 2. The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made. Except for amounts legally encumbered at the end of each fiscal year the unexpended balance of any appropriation shall revert to the fund from which it was appropriated. In case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year by approved budget amendment.

Section 3. The appropriations in this act are intended to provide for all expenditures for:

(1) personal services;

(2) all other ordinary and necessary expenditures for the operation of the agency and the program to which the appropriation applies;

(3) repairs and maintenance, other than major alterations of existing buildings; and

(4) the purchase or replacement of capital items other than expenditures for the construction, improvement, or furnishing of

HeinOnline -- 1971 vol. II 1908 1971

buildings or purchase of buildings or land unless specifically authorized.

Section 4. Financing for new or expanded programs from sources other than the general fund may be made available by approved budget amendment.

Section 5. Subject to law, each agency, with the exception of elected officials and their employees, shall submit for review and approval to the director of the budget division, on or before July 1 of each fiscal year, an operational plan within the limits of appropriations which includes the position and salary of all officers and employees, and no change shall be made in said operational plan without an approved budget amendment as provided in section 1 (3) above.

The review and approval power of the budget director relating to the operational plan shall be limited to determining whether the plan is within appropriation limitations.

The salary of the chief administrator of each agency, commission, board, or institution shall be determined by the appointing authority subject to the provisions established in section 1 (3) above, except as herein provided.

Section 6. No new program may be established and no existing program may be expanded beyond the scope of the programs approved by the legislature in the 1973 biennial budget, unless the new program or the program expansion and its method of financing is approved by the governor after presentation through the director of the budget division.

Section 7. If the operation of a state agency is financed by an appropriation or appropriations from the general fund as well as by appropriation from other sources, the funds provided by appropriation from the general fund shall be decreased by the amount that the funds received from other sources exceeds the amount from other sources appropriated by the legislature in the 1973 biennial budget, provided that:

(1) the decrease does not jeopardize the receipt of the funds to be received from other sources; and

(2) this section shall not apply to any excess funds if they are to be expended for a new or expanded program approved by the governor upon a request submitted to him through the director of the budget division.

Section 8. When an agency receives federal funds as a reimbursement for a pro-rated share of administrative cost attributed

HeinOnline -- 1971 vol. II 1909 1971

to the operation of all state agencies involved in this cost was financed by a general fund appropriation, the federal funds shall be deposited into the general fund unless usage of the federal funds is restricted by federal provisions.

Section 9. The governor after declaring an emergency, may reduce any appropriation by not more than fifteen percent (15%) except appropriations for:

(1) payment of interest and retirement of the state debt;

(2) operation of the legislature;

(3) public schools;

(4) the judiciary; or

(5) salaries of elected officers, during their term of office.

Section 10. An informational copy of each approved budget amendment shall be filed with the legislative auditor. The director of the budget division shall submit to the succeeding legislature a summary of all approved budget amendments made during the biennium together with the supporting data.

Section 11. If any section, subsection, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Section 12. The following moneys are appropriated for the biennium ending June 30, 1973:

	For the Fiscal Year Ending June 30, 1972	For the Fiscal Year Ending June 30, 1973
DEPARTMENT OF ADMINISTRATION		
Controller Program		
From the general fund	$ 122,000	$ 102,000
From the federal and private revenue fund, communication account	45,000	90,000
Governor Elect Program		
From the general fund	.....	26,000
Accounting Program		
From the general fund	220,000	250,000
Architecture and Engineering Program		
From the general fund	72,000	70,000

HeinOnline -- 1971 vol. II 1910 1971

From the revolving fund, construction account	52,900	56,700
Budgeting Program		
From the general fund	200,000	200,000
Legislative Liaison		
From the general fund	25,000	25,000
Data Processing Program		
From the revolving fund, central data processing account	856,000	911,800
General Services Program		
From the general fund	395,000	425,000
From the federal and private revenue fund, capital building account	140,000	140,000
Management Systems Program		
From the general fund	120,000	128,000
Purchasing Program		
From the general fund	142,417	148,138
Building Code Council Program		
From the general fund	10,000	10,000
COMMISSION ON AGING		
Services to Aged Program		
From the general fund	22,725	23,382
From the federal and private revenue fund, commission on aging account	68,176	70,145
STATE EXAMINER		
Supervision and Examination Program		
From the general fund	558,209	578,282
Local Accounting Assistance Program		
From the general fund	14,400	24,400
DEPARTMENT OF LANDS AND INVESTMENTS		
Central Management Program		
From the general fund	126,300	126,500
Rents and benefits		
From the general fund	145,000	145,000

HeinOnline -- 1971 vol. II 1911 1971

Investment Program		
From the general fund	75,450	45,950
From the earmarked revenue fund, teachers' retirement account	6,000	7,000
From the earmarked revenue fund, PERS account	11,000	12,000
From the earmarked revenue fund, social security account	8,000	9,000
From the earmarked revenue fund, industrial accident administrative account	2,000	2,000
Reclamation Program		
From the general fund	80,100	83,500
From the earmarked revenue fund, reclamation account, all funds in the account are hereby appropriated.		
Land Administration Program		
From the general fund	118,100	120,700
Resource Development Program		
From the earmarked revenue fund, lands and resource development account	227,766	229,748
DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT		
Administration Program		
From the general fund	61,250	64,135
From the earmarked revenue fund, directory account	2,000	.....
From the federal and private revenue fund, planning and economic development account	20,000	20,000
Research Department		
From the general fund	44,265	42,450

HeinOnline -- 1971 vol. II 1912 1971

From the federal and private revenue fund, planning and economic development account	19,000	25,000
Information Program		
From the general fund	46,850	49,300
From the federal and private revenue fund, planning and economic development account	14,000	14,000
From the revolving fund, file management fund system account	10,000	10,000
Industrial Development Program		
From the general fund	54,700	61,000
Community Development Program		
From the general fund	87,300	88,750
From the federal and private revenue fund, planning and economic development	72,000	85,000
DEPARTMENT OF AGRICULTURE		
Administration Program		
From the general fund	124,586	125,909
Agricultural Statistics Program		
From the general fund	21,729	25,023
From the federal and private revenue fund, marketing service account	9,211	9,855
From the revolving fund, wheat research and marketing account	1,700	1,800
Pesticide Control Program		
From the general fund	45,000	45,000
Commercial Feed and Fertilizer Program		
From the earmarked revenue fund, commercial fertilizer account	47,666	44,810
Commercial feed account	39,094	37,371
Dairy Program		
From the general fund	53,505	56,738

HeinOnline -- 1971 vol. II 1913 1971

From the federal and private revenue fund, marketing service account	6,180	6,180
From the revolving fund, agricultural department account	5,000	5,000
Horticultural Program		
From the general fund	136,743	141,913
Weights and Measures Program		
From the general fund	118,848	122,336
From the revolving fund, agricultural department account	7,000	7,000
Wheat Research and Marketing Program		
From the revolving fund, wheat research and marketing account	223,753	223,598
Marketing Coordinator Program		
From the general fund	19,424	20,399
Grain Laboratories Program		
From the earmarked revenue fund, grain services account	263,260	271,866
STATE ENTOMOLOGIST		
Entomology Program		
From the general fund	17,788	17,660
Apiary Regulation Program		
From the general fund	18,148	19,298
LIVESTOCK SANITARY BOARD		
Administration Program		
From the general fund	49,076	50,616
From the earmarked revenue fund, livestock sanitary board account	10,000	10,000
Diagnostic Laboratory Program		
From the general fund	92,741	120,479
From the earmarked revenue fund, livestock sanitary board account	10,000	10,000

HeinOnline -- 1971 vol. II 1914 1971

Disease Control Program		
From the earmarked revenue fund, livestock sanitary board account	213,353	219,825
Dairy and Milk Inspection Program		
From the general fund	58,593	61,982
HISTORICAL SOCIETY		
Administration Program		
From the general fund	68,772	71,067
Library Program		
From the general fund	84,733	86,083
Museum Program		
From the earmarked revenue fund, historical society account	56,758	53,193
Magazine Program		
From the revolving fund, historical society account	92,301	95,969
Merchandising Program		
From the revolving fund, historical society account	203,926	209,911
ARTS COUNCIL		
Promotion of the Arts Program		
From the general fund	25,000	25,000
From the federal and private revenue fund, Montana arts council account	2,858	3,114
DEPARTMENT OF PUBLIC WELFARE		
Economic Assistance Program		
From the general fund	7,204,242	8,160,084
Social Services Program		
From the general fund	355,000	325,000
From the federal and private revenue fund, public welfare account	1,771,195	1,889,551

HeinOnline -- 1971 vol. II 1915 1971

Eligibility Determination Program		
From the general fund	295,021	319,279
From the federal and private revenue fund, public welfare account	2,185,689	2,302,693
Medical Assistance Payments Program		
To institutions under Title XIX From the general fund	482,542	482,542
Visual Services Program		
From the general fund	107,978	115,392
From the federal and private revenue fund, public welfare account	398,587	409,118

Any funds available to the department of public welfare which are unexpended during the biennium ending June 30, 1971, are hereby reappropriated to the biennium ending June 30, 1973. No funds appropriated for public welfare under this act may be dispersed until the state board of public welfare shall establish regulations, not inconsistent with federal laws and regulations, that require able-bodied recipients of public welfare to make every reasonable effort to seek gainful employment including registration for employment with the Montana employment security commission. Exceptions and regulations regarding this section shall be established by the state board of public welfare.

It is the intent of the legislative assembly that the department of public welfare maintain a uniform level of payments throughout the biennium covered by this appropriation utilizing any additional federal funds which are made available.

	For the Fiscal Year Ending June 30, 1972	For the Fiscal Year Ending June 30, 1973
VOCATIONAL REHABILITATION		
Vocational Guidance Program		
From the general fund	$ 315,000	$ 310,000
From the federal and private revenue fund, vocational rehabilitation account	2,139,200	2,189,112
Disability Determination Unit Program		
From the federal and private reve-		

HeinOnline -- 1971 vol. II 1916 1971

enue fund, vocational rehabilitation account	256,551	306,888
SOIL CONSERVATION COMMITTEE		
Supervision of Soil and Water Conservation Districts Program		
From the general fund	25,880	25,272
Watershed Planning Program		
From the general fund	58,830	58,830
State Rangeland Resource Plan Program		
From the general fund	21,524	21,204
WATER RESOURCES BOARD		
Administration Program		
From the general fund	197,767	207,686
From the earmarked revenue fund, water resources board account	35,100	34,800
Engineering Program		
From the general fund	375,000	375,000
From the earmarked revenue fund, water resources board account	94,900	85,200
Water Resources Program		
From the general fund	250,000	275,000
Planning Program		
From the general fund	133,000	134,000
From the federal and private revenue fund	96,340	105,000
ADJUTANT GENERAL		
Administration Program		
From the general fund	67,590	73,503
Army National Guard Program		
From the general fund	235,650	245,220

HeinOnline -- 1971 vol. II 1917 1971

From the federal and private revenue fund, national guard account	43,700	43,700
Air National Guard Program		
From the general fund	36,674	40,341
From the federal and private revenue fund, national guard account	84,900	84,900

CIVIL DEFENSE

Civil Defense Coordination Program		
From the general fund	73,279	76,145
From the federal and private revenue fund, civil defense account	78,256	81,250
Civil defense calibration account	32,084	33,806

HIGHWAY PATROL

Patrol Operations Program		
From the general fund	235,683	251,835
From the earmarked revenue fund, highway commission account	86,340	93,900

If funding from highway commission earmarked revenues is unavailable for above program, the amounts shown shall be appropriated from the general fund.

Driver Licensing Program		
From the general fund	401,554	455,575
From the earmarked revenue fund, highway commission account	232,600	251,895

If funding from highway commission earmarked revenues is unavailable for above program, the amounts shown shall be appropriated from the general fund.

From the federal and private revenue fund, highway patrol account	20,800	.....
Field Services Program		
From the general fund	647,933	692,621
From the earmarked revenue fund, highway commission account	1,395,200	1,515,300

HeinOnline -- 1971 vol. II 1918 1971

If funding from highway commission earmarked revenues is unavailable for above program, the amounts shown shall be appropriated from the general fund.

Commercial Vehicle Regulation Program		
From the earmarked revenue fund, highway account	215,150	225,540
LIQUOR CONTROL BOARD		
Merchandising—Resale Purchases Program		
From the earmarked revenue fund, liquor control board account	8,662	8,169
From the revolving fund, liquor control board account	19,716,157	20,962,044
Merchandising—Warehouse Operations Program		
From the earmarked revenue fund, liquor control board account	223,130	242,068
Merchandising—State Liquor Stores Program		
From the earmarked revenue fund, liquor control board account	2,625,493	2,762,475
Regulating Program		
From the earmarked revenue fund, liquor control board account	169,621	172,838
General Administration Program		
From the earmarked revenue fund, liquor control board account	382,737	385,167
From the revolving fund, liquor control board account	1,119,349	1,190,082
LIVESTOCK COMMISSION		
Livestock Inspection and Control Program		
From the earmarked revenue fund, livestock commission account	769,722	736,902

HeinOnline -- 1971 vol. II 1919 1971

Predatory Animal Control Program		
From the earmarked revenue fund, livestock commission account	94,500	94,500
Dealers Licensing Program		
From the earmarked revenue fund	10,700	11,000
Rabies Control Program		
From the general fund	5,000	.....
EMPLOYMENT SECURITY COMMISSION		
Unemployment Insurance and Employment Service Program		
From the federal and private revenue fund, employment security commission administrative account	3,604,100	3,854,362
Job Corps Program		
From the federal and private revenue fund, employment security commission administrative account	66,043	68,835
Manpower Development and Training Program		
From the federal and private revenue fund, employment security commission administrative account	216,753	225,860
Manpower development and training payments account	800,000	800,000
Concentrated Employment Program		
From the federal and private revenue fund, employment security commission administrative account	861,183	880,218
Employment security commission concentrated employment program account	390,000	395,000
Work Incentive Program		
From the federal and private revenue fund, employment security commission administrative account	910,443	916,511

HeinOnline -- 1971 vol. II 1920 1971

Employment security commission work incentive program account	750,000	790,000
NABS-JOBS Program		
From the federal and private revenue fund, employment security commission administrative account	79,241	82,460
Manpower development training payments account	74,000	89,000
MILK CONTROL BOARD		
Price Regulation of Milk Industry Program		
From the earmarked revenue fund, milk control account	133,500	135,000

Approved June 29, 1971.

EXTRAORDINARY SESSION II HOUSE BILL NO. 28

An Act Appropriating Monies for Certain State Agencies of Government for the Biennium Ending June 30, 1971, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following amounts of money are appropriated for the biennium ending June 30, 1971:

Law Library:

From the general fund for operation and capital, three thousand dollars .....$ 3,000

Public Welfare, Department of:

From the general fund for operation, for payment of grant-in-aid to the counties of Silver Bow, Mineral and Cascade under section 71-311, R.C.M. 1947, five hundred thirty thousand dollars $530,000

The appropriation balances for the operation of the forty-second legislative assembly and the first extraordinary session, are hereby reappropriated for operation of the second extraordinary session.

Section 2. This act is effective upon passage and approval.

Approved June 25, 1971.

HeinOnline -- 1971 vol. II 1921 1971

EXTRAORDINARY SESSION II HOUSE BILL NO. 34

An Act Appropriating One Hundred Fifty Thousand Dollars ($150,000) From the Long-Range Building Program Fund to the Department of Administration for the Acquisition of Land for the Capitol Complex; Said Purchase to be Subject to Approval by the Capitol Building and Planning Committee.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated from the long-range building program fund the sum of one hundred fifty thousand dollars ($150,000) to the department of administration for the acquisition of land for the capitol complex. This purchase shall be subject to the approval of the capitol building and planning committee.

Approved June 29, 1971.

EXTRAORDINARY SESSION II HOUSE BILL NO. 37

An Act Appropriating Twelve Thousand Dollars ($12,000) to the Legislative Council to Study the Foundation Program and Make Recommendations for Improvement of the Foundation Program Structure to the Forty-third Legislative Assembly.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated from the general fund the sum of twelve thousand dollars ($12,000) to the Legislative Council to study the foundation program and make recommendations for improvement of the foundation program structure to the forty-third legislative assembly.

Section 2. Any and all federal and private revenue that is available is hereby appropriated.

Approved June 29, 1971.

EXTRAORDINARY SESSION II HOUSE BILL NO. 41

An Act to Appropriate Monies to the Units of the Montana University System, the Agricultural Experiment Station, the Cooperative Extension Service, the Western Interstate Commission for

HeinOnline -- 1971 vol. II 1922 1971

Higher Education, the Office of the Executive Secretary of the Montana University System and the School for the Deaf and Blind, State Superintendent of Public Instruction, Including the Funding of the Foundation Program, the Board of Education, and Vocational Education, the State Advisory Council for Vocational Education, for Personal Services, Operation, and Capital Expenditures for the Biennium Ending June 30, 1973.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "personal services" means all salaries and wages of employees of the state and the state's contribution for social security, employees' retirement, industrial accident insurance, and any authorized insurance program.

(2) The term "operation" means all ordinary and necessary expenditures for operation of the unit to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized by legislative act, or approval of the board of regents.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals.

(6) The term "student fees" means all registration and incidental fees, but not student building fees, and all nonresident building fees other than nonresident fees, which are imposed uniformly on all students, or upon all nonresident students, in attendance at any unit of the Montana university system.

(7) "Agency" includes all state offices, departments, divisions,

HeinOnline -- 1971 vol. II 1923 1971

boards, commissions, councils, committees, institutions, university units, and other entities or instrumentalities of state government.

(8) "Program" means a combination of planned efforts to provide a service.

(9) "Approved budget amendment" means approval by the governor of a request submitted through the director of the budget division to:

(a) obtain financing for new or expanded program from funds which were not available for consideration by the legislature but which have become available from a source other than state's general fund; or

(b) transfer appropriations, including general fund appropriations, between programs within a state agency; or

(c) expend remaining balances of the first fiscal year appropriations, including general fund appropriations, during the second fiscal year of the biennium.

(d) change any agency operational plan except for duties, responsibilities or authority given by law to the superintendent of public instruction.

Section 2. The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made. Except for amounts legally encumbered at the end of each fiscal year the unexpended balance of any appropriation shall revert to the fund from which it was appropriated. In case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year by approved budget amendment.

Section 3. The appropriations in this act are intended to provide for all expenditures for:

(1) personal services;

(2) all other ordinary and necessary expenditures for the operation of the agency and the program to which the appropriation applies;

(3) repairs and maintenance, other than major alterations of existing buildings; and

(4) the purchase or replacement of capital items other than expenditures for the construction, improvement, or furnishing of buildings or purchase of buildings or land unless specifically authorized.

HeinOnline -- 1971 vol. II 1924 1971

Section 4. Financing for new or expanded programs from sources other than the general fund may be made available by approved budget amendment.

Section 5. Subject to law, each agency, with the exception of elected officials and their employees and academic personnel of the Montana university system, shall submit for review and approval to the director of the budget division, on or before July 1 of each fiscal year, an operational plan within the limits of appropriations which includes the position and salary of all officers and employees, and no change shall be made in said operational plan without an approved budget amendment as provided in section 1 (9) above.

The review and approval power of the budget director relating to the operational plan shall be limited to determining whether the plan is within appropriation limitations.

The salary of the chief administrator of each agency, commission, board, or institution shall be determined by the appointing authority subject to the provisions established in section 1 (9) above.

Section 6. Transfers of appropriated funds between programs of an agency may be made only by an approved budget amendment.

Section 7. When an agency receives federal funds as a reimbursement for administrative cost, any portion of the administrative cost based upon and specifically attributable to the operation of all other state agencies involved, to the extent such agencies are financed by general fund appropriation, the pro-rated share of such administrative costs shall be deposited into the general fund unless the usage of the federal funds is restricted by federal provision. This provision shall not apply to the administrative costs (indirect cost reimbursement) generated by this agency.

Section 8. In addition to the amounts specifically appropriated by this act, there is hereby appropriated to the Montana university system all federal funds for existing programs, all nontreasury funds, including those funds related to various supporting facilities and organizations such as auxiliary enterprises and foundations. All other monies received from all other sources may be made available by an approved budget amendment.

Section 9. The governor after declaring an emergency, may reduce any appropriation by not more than fifteen percent (15%) except appropriations for:

(1) payment of interest and retirement of the state debt;

(2) operation of the legislature;

HeinOnline -- 1971 vol. II 1925 1971

(3) public schools;

(4) the judiciary; or

(5) salaries of elected officials, during their term of office.

Section 10. An informational copy of each approved budget amendment shall be filed with the legislature auditor. The director of the budget division shall submit to the succeeding legislature a summary of all approved budget amendments made during the biennium together with the supporting data.

Section 11. If any section, subsection, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Section 12. The following monies are appropriated for the biennium ending June 30, 1973:

	For the Fiscal Year Ending June 30, 1972	For the Fiscal Year Ending June 30, 1973
UNIVERSITY OF MONTANA		
(1) From the earmarked revenue fund, student fee account, for personal services, operation and capital	$ 3,450,000	$ 3,600,000
(2) From the earmarked revenue fund, university millage account, for personal services, operation and capital	1,975,000	2,025,000
(3) From the general fund, for personal services, operation and capital	7,000,000	7,000,000
MONTANA STATE UNIVERSITY		
(1) From the earmarked revenue fund, student fee account, for personal services, operation and capital	2,750,000	3,000,000
(2) From the earmarked revenue fund, university millage account, for personal services, operation and capital	2,000,000	2,025,000
(3) From the general fund, for personal services, operation and capital	7,105,000	7,105,000
(4) From the general fund, for personal services, operation and capital	200,000	.....

HeinOnline -- 1971 vol. II 1926 1971

This appropriation shall be expended only if federal land grant monies are not received. If such land grant monies are received this appropriation shall revert to the general fund.		
AGRICULTURAL EXPERIMENT STATION		
(1) From the general fund, for personal services, operation and capital	1,950,000	1,950,000
(2) From the agricultural experiment station earmarked revenue account, for payment of contract for deed between Milo C. Roberts and Edith Z. Roberts for the use and benefit of the agricultural experiment station, plus seven percent (7%) interest	6,800	6,800
From the experiment station fertilizer earmarked revenue account for educational and experimental programs	31,185	40,000
COOPERATIVE EXTENSION SERVICE		
(1) From the general fund, for personal services, operation and capital	650,000	650,000
(2) From the extension service fertilizer earmarked revenue account for educational and experimental programs	31,185	40,000
MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY		
(1) From the earmarked revenue fund, student fee account, for personal services, operation and capital	275,000	290,000
(2) From the earmarked revenue fund, university millage account, for personal services, operation and capital	245,000	250,000
(3) From the general fund for personal services operation and capital	1,225,000	1,225,000

HeinOnline -- 1971 vol. II 1927 1971

(4) From the general fund for matching federal funds for coal evaluation ..	42,244	48,814
EASTERN MONTANA COLLEGE		
(1) From the earmarked revenue fund, student fee account, for personal services, operation and capital	1,200,000	1,240,000
(2) From the earmarked revenue fund, university millage account, for personal services, operation and capital	950,000	975,000
(3) From the general fund for personal services, operation and capital	2,195,000	2,195,000
NORTHERN MONTANA COLLEGE		
(1) From the earmarked revenue fund, student fee account, for personal services, operation and capital	420,000	435,000
(2) From the earmarked revenue fund, university millage account, for personal services, operation and capital	375,000	385,000
(3) From the general fund for personal services, operation and capital	1,210,000	1,210,000
WESTERN MONTANA COLLEGE		
(1) From the earmarked revenue fund, student fee account, for personal services, operation and capital	305,000	317,000
(2) From the earmarked revenue fund, university millage account, for personal services, operation and capital	280,000	290,000
(3) From the general fund for personal services, operation and capital	705,000	705,000
STATE BOARD OF REGENTS		
From the general fund to be distributed as an equity amount to the university units based on: (1) enrollment levels anticipated as related to actual enrollment fall quarter 1972, 1973 and		

HeinOnline -- 1971 vol. II 1928 1971

(2) fee collections anticipated as related to fall quarter 1972, 1973, such distribution to be presented to the budget director prior to allocation of funds	300,000	300,000
OFFICE OF EXECUTIVE SECRETARY MONTANA UNIVERSITY SYSTEM		
(1) From the general fund for personal services, operation and capital ..	90,000	90,000
(2) From the general fund for N.D.E.A. matching loan funds	25,000	25,000
(3) From the general fund for W.I.C.H.E. administration	16,000	16,000
(4) From the general fund for W.I.C.H.E. student payments	284,000	284,000
(5) From the federal and private revenue fund, executive secretary account for personal services, operation and capital	60,000	60,000
SCHOOL FOR THE DEAF AND BLIND		
Administration Program		
From the general fund	53,120	54,890
From the federal and private revenue fund, deaf and blind interest and income account	1,800	1,800
General services program		
From the general fund	78,677	73,580
From the federal and private revenue fund, deaf and blind interest and income account	17,000	17,000
Education program		
From the general fund	251,624	322,013
From the federal and private revenue fund, deaf and blind interest and income account	67,529	10,200
Care and Custody program		
From the general fund	138,950	143,918

HeinOnline -- 1971 vol. II 1929 1971

From the federal and private revenue fund, deaf and blind interest and income account	6,000	6,000
SUPERINTENDENT OF PUBLIC INSTRUCTION		
(1) From the general fund for: (a) all duties and services of the office of the superintendent of public instruction including the National Defense Education Act but excluding the Manpower Development and Training Act and vocational education for personal services, operation and capital	476,594	506,858
(b) manpower development and training, personal services, operation and capital and educational training projects	45,050	49,550
(c) vocational education, personal services, operation and capital	68,650	74,925
(d) school food services, state matching funds to be distributed to school districts	117,956	176,933
(e) payment of state equalization aid to common school districts, high school districts and county high schools in accordance with the school foundation program	17,575,052	19,631,766
If the referendum of Nov. 1, 1971, is approved, there is hereby appropriated to the Foundation Program from the general fund a sufficient amount to equalize state support to the level of the level of the existing appropriations.		
(f) payment of transportation aid in accordance with Montana school law	1,400,000	1,425,000
(2) From the earmarked revenue fund traffic and safety education account, for: (a) personal services, operation and capital	24,000	24,000

HeinOnline -- 1971 vol. II 1930 1971

(b) distribution to schools, as much as is available for distribution.

(3) From the earmarked revenue fund, state equalization aid account, for:

(a) all duties and services of the office of the superintendent of public instruction including the National Defense Education Act but excluding the Manpower Development and Training Act and vocational education, for personal services, operation and capital	189,432	201,681
(b) vocational education, personal services, operation and capital	90,172	93,685

(c) payments to school districts in accordance with the provisions of section 75-6925, R.C.M. 1947, as much as may be necessary to fulfill the legal obligations of the act for each year of the biennium.

(4) From the earmarked revenue fund, state equalization aid account, the amount of twenty-five thousand dollars ($25,000) is appropriated to the revolving fund, school food services account, to cover the handling charges of commodities to districts to be reimbursed by such districts.

(5) From the revolving fund, school food services account, all monies are hereby appropriated. Any balance remaining in the revolving fund, school food services account, at the end of the biennium shall revert to the fund from which it was appropriated.

(6) From the federal and private revenue fund, public instruction account, all monies are hereby appropriated.

(7) From the federal and private revenue fund, surplus donable property account, all revenues received are hereby appropriated.

HeinOnline -- 1971 vol. II 1931 1971

BOARD OF EDUCATION

(1) From the earmarked revenue fund, university millage account, for personal services, operation and capital	24,537	27,447
(2) From the general fund for: (a) For vocational education to finance the five state designated post-secondary vocational-technical education centers	1,675,000	1,775,000
For vocational education to finance programs other than the five state designated post-secondary vocational-technical education centers	440,000	460,000
(b) Northern Montana College for training vocational-technical teachers	45,000	55,000
(3) From the general fund for the state advisory council for vocational education.	8,811	7,780
(4) From the federal and private revenue fund, advisory council for vocational education account, all monies are hereby appropriated.		
(5) All federal monies deposited in the superintendent of public instruction federal and private grant clearance account (510403) are hereby appropriated.		

Section 13. No new program may be established and no existing program may be expanded beyond the scope of the programs approved by the legislature in the 1973 biennial budget, unless the new program or the program expansion and its method of financing is approved by the Board of Education in the case of programs administered by the superintendent of public instruction and by the Board of Regents in the case of programs administered by units of the university system but in each case written report thereof shall immediately be made to the governor and the director of the budget division.

Section 14. If any section, subsection, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Approved June 29, 1971.

HeinOnline -- 1971 vol. II 1932 1971

EXTRAORDINARY SESSION II HOUSE BILL NO. 42

An Act to Appropriate Moneys to Various State Agencies for the Biennium Ending June 30, 1973; and Providing for Other Matters Relating to the Appropriations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise stated:

(1) "Agency" includes all state offices, departments, divisions, boards, commissions, councils, committees, institutions, university units, and other entities or instrumentalities of state government.

(2) "Program" means a segment that includes a combination of planned efforts to provide a service.

(3) "Approved budget amendment" means approval by the governor of a request submitted through the director of the budget division to:

(a) obtain financing for new or expanded program from funds which were not available for consideration by the legislature but which have become available from a source other than state's general fund; or

(b) transfer appropriations, including general fund appropriations, between programs within a state agency; or

(c) expend remaining balances of the first fiscal year appropriations, including general fund appropriations, during the second fiscal year of the biennium; or

(d) change any agency operation plan.

Section 2. The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made. Except for amounts legally encumbered at the end of each fiscal year the unexpended balance of any appropriation shall revert to the fund from which it was appropriated. In case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year by approved budget amendment.

Section 3. The appropriations in this act are intended to provide for all expenditures for:

(1) personal services;

(2) all other ordinary and necessary expenditures for the operation of the agency and the program to which the appropriation applies;

HeinOnline -- 1971 vol. II 1933 1971

(3) repairs and maintenance, other than major alterations of existing buildings; and

(4) the purchase or replacement of capital items other than expenditures for the construction, improvement, or furnishing of buildings or purchase of buildings or land unless specifically authorized.

Section 4. Financing for new or expanded programs from sources other than the general fund may be made available by approved budget amendment.

Section 5. Subject to law, each agency, with the exception of elected officials and their employees, shall submit for review and approval to the director of the budget division, on or before July 1 of each fiscal year, an operational plan within the limits of appropriations which includes the position and salary of all officers and employees, and no change shall be made in said operational plan without an approved budget amendment as provided in section 1 (3) above.

The review and approval power of the budget director relating to the operational plan shall be limited to determining whether the plan is within appropriation limitations.

The salary of the chief administrator of each agency, commission, board, or institution shall be determined by the appointing authority subject to the provisions established in section 1 (3) above, except as herein provided.

Section 6. No new program may be established and no existing program may be expanded beyond the scope of the programs approved by the legislature in the 1973 biennial budget, unless the new program or the program expansion and its method of financing is approved by the governor after presentation through the director of the budget division.

Section 7. If the operation of a state agency is financed by an appropriation or appropriations from the general fund as well as by appropriation from other sources, the funds provided by appropriation from the general fund shall be decreased by the amount that the funds received from other sources exceeds the amount from other sources appropriated by the legislature in the 1973 biennial budget, provided that:

(1) the decrease does not jeopardize the receipt of the funds to be received from other sources; and

(2) this section shall not apply to any excess funds if they are

HeinOnline -- 1971 vol. II 1934 1971

to be expended for a new or expanded program approved by the governor upon a request submitted to him through the director of the budget division.

Section 8. When an agency receives federal funds as a reimbursement for a pro-rated share of administrative cost attributed to the operation of all state agencies involved in this cost was financed by a general fund appropriation, the federal funds shall be deposited into the general fund unless usage of the federal funds is restricted by federal provisions.

Section 9. The governor after declaring an emergency, may reduce any appropriation by not more than fifteen percent (15%) except appropriations for:

(1) payment of interest and retirement of the state debt;

(2) operation of the legislature;

(3) public schools;

(4) the judiciary; or

(5) salaries of elected officers, during their term of office.

Section 10. An informational copy of each approved budget amendment shall be filed with the legislative auditor. The director of the budget division shall submit to the succeeding legislature a summary of all approved budget amendments made during the biennium together with the supporting data.

Section 11. If any section, subsection, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Section 12. The following moneys are appropriated for the biennium ending June 30, 1973:

	For the Fiscal Year Ending June 30, 1972	For the Fiscal Year Ending June 30, 1973
HIGHWAY COMMISSION		
General Operations Program		
From the earmarked revenue fund, highway account	$ 4,453,726	$ 4,718,291
From the federal and private revenue fund, highway trust account	707,022	749,022
Construction Program		
From the earmarked revenue fund, highway account	15,328,180	15,474,986

HeinOnline -- 1971 vol. II 1935 1971

From the federal and private revenue fund, highway trust account	63,161,107	58,055,918
Maintenance Program		
From the earmarked revenue fund, highway account	14,142,149	15,200,217
Advertising Program		
From the earmarked revenue fund, highway account	600,000	600,000
Preconstruction Program		
From the earmarked revenue fund, highway account	2,308,663	2,330,774
From the federal and private revenue fund, highway trust account	10,040,023	10,868,755

From the revolving fund: The amount of $250,000 is appropriated from the earmarked revenue fund, state highway account to establish a revolving fund, state highway account, to cover all reimbursable expenditures. Any balance remaining in the revolving fund, highway account at the end of the biennium shall revert to the fund from which it was appropriated.

Any funds available to the Montana highway commission for distribution to cities and counties under section 84-1840, R.C.M. 1947, which are unexpended during the biennium ending June 30, 1971, are hereby reappropriated to the biennium ending June 30, 1973. The provisions of section 3 relating to annual reversions shall not apply to appropriations made under section 84-1840, aid to cities and counties.

The amount of $500,000 is appropriated from the earmarked revenue fund, state highway, to establish a revolving fund, state highway account, motor vehicle pool, to cover all reimbursable expenditures in connection with the statewide motor vehicle pool.

	For the Fiscal Year Ending June 30, 1972	For the Fiscal Year Ending June 30, 1973
BOARD OF EQUALIZATION		
General Administration Program		
From the general fund	$ 196,478	$ 204,093
From the earmarked revenue fund, aeronautics commission account	5,150	5,110

HeinOnline -- 1971 vol. II 1936 1971

Income and Corporation License Tax Program		
From the general fund	496,267	523,637
From the earmarked revenue fund, public school equalization account	205,988	207,407
Motor Fuel Taxes Program		
From the earmarked revenue fund, highway account	253,302	263,000
From the revolving fund, board of equalization audit account	7,200	7,200
Property Tax Program		
From the general fund	165,341	164,012
Inheritance Tax Program		
From the general fund	40,953	42,444
Store and Tobacco License Tax Program		
From the general fund	62,198	63,940
From the earmarked revenue fund, cigarette enforcement account	22,100	23,000
From the earmarked revenue fund, unclaimed property account	10,900	10,900
MERIT SYSTEM		
Personnel Services Program		
From the earmarked revenue fund, joint merit system account	74,219	80,401
VETERANS WELFARE COMMISSION		
Veterans Affairs Program		
From the general fund	173,645	178,534
BOARD OF HAIL INSURANCE		
Hail Insurance Program		
From the earmarked revenue fund, hail insurance administrative account	58,326	58,974

HeinOnline -- 1971 vol. II 1937 1971

OIL AND GAS CONSERVATION COMMISSION		
Regulation of Drilling and Production Program		
From the earmarked revenue fund, oil and gas account	249,615	256,768
LIBRARY COMMISSION		
Library Service and Development Program		
From the general fund	128,680	128,680
From the federal and private revenue fund, library commission account	83,370	117,613
Library Networks Program		
From the federal and private revenue fund, library commission account	40,597	40,597
Institutional Library Service Program		
From the general fund	36,000	36,000
From the federal and private revenue fund, library commission account	39,509	39,509
Library Services For Physically Handicapped Program		
From the general fund	10,320	10,320
From the federal and private revenue fund, library commission account	25,052	25,052
DEPARTMENT OF HEALTH		
Comprehensive Health Planning Program		
From the general fund	39,053	39,992
From the federal and private revenue fund, public health account	81,800	81,800
Management Services Program		
From the general fund	207,040	210,958
From the federal and private revenue fund, public health account	72,371	72,347

HeinOnline -- 1971 vol. II 1938 1971

Communicable Disease Control Program		
From the general fund for a state temporary mosquito abatement advisory council and vector specialist ..	20,000	20,000
From the general fund	51,648	51,700
From the federal and private revenue fund, public health account	207,331	210,980
Health Services Program		
From the general fund	446,053	461,731
From the federal and private revenue fund, public health account	664,308	661,009
Heart and chest x-ray account	43,464	44,797
Health Care Facilities and Manpower Program		
From the general fund	124,746	115,832
From the federal and private revenue fund, public health account	187,879	198,333
Environmental Health Program		
From the general fund	356,062	392,395
From the federal and private revenue fund, public health account	329,661	330,094
From the revolving fund, transient lodging account	5,000	5,000
INDUSTRIAL ACCIDENT BOARD		
Board Program		
From the earmarked revenue fund, industrial accident administrative account	699,253	721,827
Volunteer firemen's compensation account	8,000	8,000
State Insurance Fund Program		
From the earmarked revenue fund, industrial accident administrative account	139,262	137,934

HeinOnline -- 1971 vol. II 1939 1971

Loss adjustment account	543,948	580,512
Silicosis Program		
From the general fund	697,000	650,000
DEPARTMENT OF LABOR AND INDUSTRY		
Labor Administration Program		
From the general fund	78,400	78,400
Apprenticeship Council Program		
From the general fund	26,600	26,600
From the federal and private revenue fund, labor and industry account	7,000	7,000
PUBLIC EMPLOYEES RETIREMENT SYSTEM		
Public Employees Retirement System Program		
From the earmarked revenue fund, public employees retirement system account	166,864	167,748
Judges retirement account	1,500	1,500
Social Security Program		
From the earmarked revenue fund, social security account	82,023	80,365
TEACHERS RETIREMENT SYSTEM		
Teachers Retirement Program		
From the earmarked revenue fund, teachers retirement account	125,528	122,597
FISH AND GAME DEPARTMENT		
Administration Program		
From the earmarked revenue fund, fish and game account	665,201	727,314
Information and Education Program		
From the earmarked revenue fund, fish and game account	559,996	576,976

HeinOnline -- 1971 vol. II 1940 1971

From the federal and private revenue fund, fish and game account	35,000	35,000
Fisheries Program		
From the earmarked revenue fund, fish and game account	911,430	933,571
From the federal and private revenue fund, fish and game account	291,122	301,372
Law Enforcement Program		
From the earmarked revenue fund, fish and game account	1,379,887	1,467,455
Fish and game motorboat certificate account	24,800	30,000
From the federal and private revenue fund, motorboat safety account	45,000	40,000
Fish and game account	41,585	50,806
Game Management Program		
From the earmarked revenue fund, fish and game account	466,084	487,701
From the federal and private revenue fund, fish and game account	915,388	919,177
Recreation and Parks Program		
From the general fund	261,000	261,000
From the earmarked revenue fund, fish and game account	299,579	334,464
State parks miscellaneous account	112,000	117,000
State parks account	165,000	165,000
Fish and game snowmobile registration account	3,100	3,100
From the federal and private revenue fund, fish and game account	10,000	10,000
From the general fund, for payment to Link Brothers, concessionaire, at Lewis and Clark Cavern State Park pursuant to renewal of 1946 agreement and supplement thereof, contingent upon court approval of such agreement in pending litigation	16,000	16,000

HeinOnline -- 1971 vol. II 1941 1971

Environmental Resources Program		
From the earmarked revenue fund, fish and game account	194,115	203,601
From the federal and private revenue fund, fish and game account	61,123	60,517
STATE FORESTER		
Department Operations Program		
From the general fund	184,809	194,103
Forest Management Program		
From the general fund	256,699	269,997
From the earmarked revenue fund, timber stand improvement account	76,088	76,088
Foresters nursery account	32,000	37,000
From the federal and private revenue fund, Clark-McNary account	12,000	12,000
Cooperative forest management account	102,400	102,400
Fire Protection Program		
From the general fund	548,315	420,000
From the earmarked revenue fund, slash and brush disposal account	221,300	225,300
From the federal and private revenue fund, Clark-McNary account	378,131	534,766
Institution Forestry Work Program		
From the general fund	41,380	43,367
GRASS CONSERVATION COMMISSION		
Grazing District Supervision Program		
From the earmarked revenue fund, grass conservation account	18,141	18,475

HeinOnline -- 1971 vol. II 1942 1971

AERONAUTICS COMMISSION		
Administration Program		
From the earmarked revenue fund, aeronautics commission account	134,812	139,866
From the revolving fund, aeronautics commission account	9,200	.....
Airport Development Program		
From the earmarked revenue fund, aeronautics commission account	295,248	296,852
From the federal and private revenue fund, aeronautics commission account	120,000	.....
Airport Operations Program		
From the earmarked revenue fund, aeronautics commission account	50,495	55,852
Navigational Aids Program		
From the earmarked revenue fund, aeronautics commission account	37,383	38,042
Safety and Compliance Program		
From the earmarked revenue fund, aeronautics commission account	67,448	73,025
Aviation and Space Education Program		
From the earmarked revenue fund, aeronautics commission account	31,914	32,612

Section 13. The appropriations for the aeronautics commission and the highway commission include amounts for capital land and/or buildings for which the provisions, section 3, paragraph (4), of this act do not apply.

Approved June 29, 1971.

HeinOnline -- 1971 vol. II 1943 1971

CHANGES IN NAMES DECREED IN 1968 - 1970

Date of Judgment	Original Name	Name Decreed	Residence
April 29, 1966	Fish Lake	Big Sky Lake	Missoula County*
Jan. 10, 1969	Jeanette Louise Cowan	Jeanette Louise Premo	Sunburst
Feb. 16, 1969	Larry Camarillo Smphia	Larry Donald Smolik	Great Falls
March 11, 1969	Philip Marc Nishi	Philip Marc Kameo	Lewistown
March 24, 1969	Foy Clark Swain	Clark Swain	Bozeman
March 28, 1969	John Michael Redmond	John Michael Corbett	Butte
March 28, 1969	Josephine H. Cherne	Josephine H. Persha	Butte
April 2, 1969	Vicke Lynn Villa	Vicke Lynn Kendall	Great Falls
April 21, 1969	David James Bell a/k/a David James Bracco	David James Egedahl	Butte
April 22, 1969	Lenore June Davis	Lenore June Anderson	Miles City
April 25, 1969	John Jake Schmidt	John Schmidt, Jr	Yellowstone County
April 30, 1969	Raymond Martinez	Raymond Martinez Benegas	Great Falls
May 14, 1969	David Allen Kerner	David Allen Mathiot	Yellowstone County
May 14, 1969	Lenaye Marye Kerner	Lenaye Marye Mathiot	Yellowstone County
May 15, 1969	Jannice Ann Heth	Janice Ann Heath	Hardin
May 15, 1969	Debra Helene Heth	Debra Ann Heath	Hardin
May 15, 1969	David Eugene Heth	David Eugene Heath	Hardin
May 21, 1969	Tina LaRae Kloock	Tina LaRae Youngbluth	Flathead County
May 21, 1969	Geraldine L. Shore	Geraldine L. Dale	Dodson
May 23, 1969	Vicki Lynn Robb	Victoria Lynn Hayden	Livingston
May 26, 1969	Vyron J. Brekke	Ronald Jay Brekke	Bozeman
May 26, 1969	Mary Ann Wetsit	Mary Ann Stark	Wolf Point
June 5, 1969	Greydanus Tippett	Greydanus Hackler	Great Falls
June 30, 1969	Harold Edward Gill	Harold Edward Barich	Anaconda
June 30, 1969	Judith Louise Ryggs	Judith Louise Harner	Helena
July 10, 1969	William Duane Sparks	William Duane Ban	Terry
July 11, 1969	George Raymond Girton	George Raymond Anderson	Helena
July 23, 1969	Shawn Ward	Shawn Monte Kovacich	Anaconda
July 23, 1969	Charles Harry Roser	Charles Peter Gassert	Flathead County
July 24, 1969	Bruce Wayne Shepherd	Bruce Wayne Severson	Shelby
July 25, 1969	Helen Arlington	Helen Halcro	Great Falls
Aug. 20, 1969	James Ray Melton	James Ray Dake	Flathead County
Aug. 22, 1969	Robert L. Webb	Laurence Webb	Great Falls
Aug. 25, 1969	Virginia Waddell Williams a/k/a Virginia L. Williams	Melodie Roseanne Williams	Bozeman
Aug. 28, 1969	Ida Lou Donnelly	Ida Lou Byrnes	Missoula County
Sept. 5, 1969	William B. Francis	William B. Hurlbert	Yellowstone County
Sept. 5, 1969	Micheleyn M. Francis	Micheleyn M. Hurlbert	Yellowstone County
Sept. 9, 1969	Richard Floyd Gerstenberger	Richard Floyd Modic	Harlem
Sept. 11, 1969	Virgil Lyle Olson	Virgil Lyle Larson	Missoula County
Sept. 24, 1969	Kristina Louise Hartford	Kristina Louise Ritschel	Anaconda
Sept. 24, 1969	Theodore Hartford	Bradley William Ritschel	Anaconda
Sept. 24, 1969	Lois M. Lang	Lois M. Elliott	Lake County
Sept. 24, 1969	Charles Paul Harris	Charles Paul Hart	Helena
Oct. 1, 1969	Lonnie S. Ingledew	Lonnie S. Johnston	Anaconda
Oct. 20, 1969	Penny Darleen Kroll	Penny Darleen Gleed	Helena
Oct. 22, 1969	Margaret Kay Evans	Margaret Kay Kountz	Whitehall
Oct. 22, 1969	Jearld Dale Skogen	Dale Jearld Morris	Whitehall
Oct. 22, 1969	Rickie Dale Gaffield	Rickie Dale Larson	Sidney
Oct. 23, 1969	Timothy Lee Radmer	Timothy Lee Droke	Missoula County
Oct. 30, 1969	Allan Wayne Youngbear	Allan Wayne Young	Busby
Nov. 5, 1969	Francis Lloyd Rinker	John Franklin Self	Yellowstone County
Nov. 14, 1969	Jess Allen Wheeler	Jess Allen Applegate	Butte
Nov. 14, 1969	Faith Lutheran Church	Apostles Evangelical Lutheran Church	Yellowstone County
Nov. 20, 1969	Robert Michael Jones	Robert Michael Branaugh	Missoula County
Nov. 21, 1969	Douglas Eugene Rud	Douglas Eugene Rude	Yellowstone County
Nov. 21, 1969	Keith Evan Rud	Keith Evan Rude	Yellowstone County
Nov. 21, 1969	Mary Coulter Rud	Mary Coulter Rude	Yellowstone County
Nov. 28, 1969	Caroline P. Goodheart	Caroline P. Poppler	Chinook
Dec. 1, 1969	Richard Lee Kuhn	Richard Lee Greene	Missoula County
Dec. 1, 1969	Karen Sue Kuhn	Karen Sue Greene	Missoula County
Dec. 1, 1969	Lorraine Brockway	Lori Brockway	Bozeman
Dec. 11, 1969	Lawrence Stands Over Bull	Lawrence Stands	Pryor
Dec. 11, 1969	Wilma Stands Over Bull	Wilma Stands	Pryor
Dec. 11, 1969	Larry Stands Over Bull	Larry Stands	Pryor
Dec. 11, 1969	Linda Stands Over Bull	Linda Stands	Pryor
Dec. 11, 1969	Adrian Stands Over Bull	Adrian Stands	Pryor
Dec. 11, 1969	Cheryl Stands Over Bull	Cheryl Stands	Pryor
Dec. 11, 1969	Vandy Stands Over Bull	Vandy Stands	Pryor

*Reported to Secretary of State April 12, 1971

HeinOnline -- 1971 vol. II 1944 1971

CHANGES IN NAMES DECREED IN 1968 - 1970

Date of Judgment	Original Name	Name Decreed	Residence
Dec. 19, 1969	David Warren Guardipee	David Warren Cleveland	Anaconda
Dec. 22, 1969	Robert Harold Dean	Robert Harald Burkhart	Bozeman
Dec. 31, 1969	Ann L. Miller	Ann L. Lacey	Miles City
Jan. 6, 1970	Sherrill Meredith Shelley	Steven Mark Shelley	Nye
Jan. 7, 1970	Gwendolyn Irene Meller	Gwen Rene' Meyett	Malta
Jan. 9, 1970	Betty Evenson	Betty Bemish	Kevin
Jan. 21, 1970	Bonnie Lee Gustafson	Bonnie Lee Welch	Malta
Feb. 13, 1970	Mrs. Rusty H. Beedle	Rusty H. Haight	Montana
Feb. 13, 1970	Cora Marie Hanink	Cora Marie Hensleigh	Miles City
Feb. 13, 1970	Eugene Garland Hardesty	Eugene Garland Anderson	Missoula
Feb. 13, 1970	Tina Denise Auch	Tina Denise Taylor	Yellowstone County
Feb. 19, 1970	Lindy Michael Jones	Michael Lyndon Jones	Helena
Feb. 20, 1970	Everett Earl Coombe	Daniel Earl Howe	Lincoln County
Mar. 4, 1970	Robert Boyd Long	Robert Boyd Mann	Anaconda
Mar. 4, 1970	Christina Renee Long	Christina Renee Mann	Anaconda
Mar. 4, 1970	Linda Dyrdahl	Linda Carnahan	Malta
Mar. 6, 1970	Sam C. Bevacqua	Sam C. Leone	Yellowstone County
Mar. 18, 1970	Marlene Gay Grainger	Marlene Gay Huston	Flathead County
Mar. 27, 1970	Grayson Shawn Papi	Grayson Shawn West	Victor
Mar. 27, 1970	Dale Deen Scrogham	Dale Dean Holthues	Yellowstone County
Mar. 31, 1970	JoDene Faye Olson	JoDene Faye Klucas	Park County
Apr. 17, 1970	David Paul Raphael	David Paul Daugherty	Yellowstone County
Apr. 20, 1970	Mary Kiel	Mary Strom	Miles City
Apr. 20, 1970	Selmer Ole Norem Jr.	Selmer Ole Lovell	Forsyth
Apr. 30, 1970	Karin Marie Erickson	Karin Marie Jacobson	Missoula
May 4, 1970	Chad G. Locke	Chad G. Weisler	Great Falls
May 6, 1970	Jacqueline Marie Hoffman	Jacqueline Marie Zuhoski	Great Falls
May 12, 1970	Jodie Dickson	Jodie Baird	Thompson Falls
May 21, 1970	Debra Lee Waldie	Debra Lee Hay	Helena
May 21, 1970	Tammy Lynn Waldie	Tammy Lynn Hay	Helena
May 29, 1970	Mary I. Riggs	Mary I. Reinhart	Miles City
June 1, 1970	Oscar Raul Ramirez	Oscar R. Ramer	Missoula
June 1, 1970	Nanette Ramirez	Nanette Ramer	Missoula
June 6, 1970	David Eugene Burkey	David Eugene Holliday	Helena
June 6, 1970	Joan Anyta Burkey	Joan Anyta Holliday	Helena
June 6, 1970	Johanna Dawn Burkey	Johanna Dawn Holliday	Helena
June 6, 1970	Drew Tiffany Burkey	Drew Tiffany Holliday	Helena
June 9, 1970	Chris Rae Hoynes	Chris Rae Montgomery	Great Falls
June 10, 1970	Georgia Heiser	Iorja Gray	Yellowstone County
June 10, 1970	James Ivan Gray Heiser	James Ivan Gray	Yellowstone County
June 15, 1970	Marvin Rodney Eversole	Marvin Rodney Gager	Missoula
June 17, 1970	Robyn Francis Chemel	Robyn Francis Kyle	Great Falls
June 18, 1970	Diane Elaine Unterseher	Diane Elaine Weidner	Big Timber
June 22, 1970	Kristopher Chandler King	Kristopher Chandler Dennett	Yellowstone County
June 22, 1970	Charles Lee Ausmus Jr.	Charles Lee Murray	Helena
June 30, 1970	Mildred Ernestine Derryberry	Mary Jane Derryberry	Lewistown
July 13, 1970	Dorothea Catherine Malley	Dorothea Catherine Moan	Miles City
July 15, 1970	Christine Reichenberger	Christine Schroeber	Yellowstone County
July 20, 1970	Jesse Vahn Stone	Jesse Vahn Gililland	Great Falls
July 22, 1970	Vicki Sue Jordon	Vicki Sue Thomsen	Yellowstone County
July 22, 1970	Bruce Andrew Jordon, Jr.	Andy Lee Thomsen	Yellowstone County
July 22, 1970	Terry Ray Jordon	Terry Ray Thomsen	Yellowstone County
Aug. 4, 1970	Jay Nolan Brower	Scott Gerald Brower	Miles City
Aug. 4, 1970	Levon Harold Storkson	Levon Harold Johnson	Glasgow
Aug. 4, 1970	Maureen Elizabeth Storkson	Maureen Elizabeth Johnson	Glasgow
Aug. 4, 1970	Gil Levon Storkson	Gil Levon Johnson	Glasgow
Aug. 4, 1970	Michelle LaVonne Storkson	Michelle LaVonne Johnson	Glasgow
Aug. 5, 1970	Louis Hoerning	Louis Whitcomb Klimper	Yellowstone County
Aug. 6, 1970	Rosemary Caroline Reynolds Stokell	Rosemary Reynolds Jeshurun	Helena
Aug. 6, 1970	David Reynolds Stokell	David Reynolds Jeshurun	Helena
Aug. 6, 1970	Matthew Dexter Stokell	Matthew Baskerville Jeshurun	Helena
Aug. 6, 1970	Marsha Caroline Stokell	Mary Esther Jeshurun	Helena
Aug. 7, 1970	Pamela Jean Shelton	Pamela Jean Sewell	Yellowstone County
Aug. 7, 1970	Mark Marion Shelton	Mark Marion Sewell	Yellowstone County
Aug. 7, 1970	Merry Angela Shelton	Merry Angela Sewell	Yellowstone County
Aug. 13, 1970	Dorothy Ann Koehnke	Dee Ann Koehnke	Deer Lodge
Aug. 14, 1970	Jeffrey Arnold Scott	Jeffrey Arnold Anders	Stevensville
Aug. 21, 1970	Tina Cherriese Brown	Tina Cherriese White	Yellowstone County
Sept. 10, 1970	Donald Duane Plienis	Donald Duane Roberts	Missoula
Sept. 18, 1970	Charles Paul Morrelli	Charles Paul McElroy	Yellowstone County

HeinOnline -- 1971 vol. II 1945 1971

CHANGES IN NAMES DECREED IN 1968 - 1970

Date of Judgment	Original Name	Name Decreed	Residence
Sept. 21, 1970	Robert Lee Sherrod	Robert Lee Stoltz	Yellowstone County
Sept. 24, 1970	Michael John Manning	Michael John Sayer	Great Falls
Sept. 30, 1970	Frederick Otto Johnson	Frederick Otto Williams	Hamilton
Oct. 2, 1970	Donna Rae Smith	Donna Rae Williams	Lincoln County
Oct. 5, 1970	Kevin Dean Hutchison	Kevin Dean Frederick	Yellowstone County
Oct. 9, 1970	Julie Ann Drake	Julie Ann Taft	Shelby
Oct. 16, 1970	Srpsko Jedinstvo	S. D. Srpsko Prosvetno Jedinstvo #3 S.N.F.	Butte
Oct. 23, 1970	Norene Jean Johnson	Norene Clare Feller	Yellowstone County
Oct. 23, 1970	Ennett Kay Johnson	Annette Kay Feller	Yellowstone County
Nov. 5, 1970	Edmond David Storrs Jr.	Edmond David Beniger	Helena
Nov. 18, 1970	David Cyril Van Hise	David B. Van Hise	Yellowstone County
Nov. 19, 1970	Wanda Kay Willett	Wanda Kay Wilson	Deer Lodge
Nov. 20, 1970	Michael Allan Zupfer	Michael Allan Pitts	Missoula
Nov. 24, 1970	John Marcus Alverson	Kazan Elbert Alverson	Livingston
Dec. 1, 1970	Steven Kelly Cartwright	Steven Kelly Kidwell	Butte
Dec. 9, 1970	Esther Kathy Langfelt	Esther Kathy Langfelt Benner	Yellowstone County
Dec. 11, 1970	Marsha Ann Sexton	Marsha Ann Harp	Flathead County
Dec. 17, 1970	James Ronald Brewer	James Ronald Fisher	Missoula
Dec. 18, 1970	Christopher Howard Angel	Christopher Angel Jones	Yellowstone County
Dec. 18, 1970	Thomas Edward Angel	Thomas Edward Jones	Yellowstone County
Dec. 21, 1970	Katherine June Foote Boscarino	Katherine June Foote	Helena

HeinOnline -- 1971 vol. II 1946 1971

APPENDIX

HeinOnline -- 1971 vol. II 1947 1971

HeinOnline -- 1971 vol. II 1948 1971

APPENDIX

The following constitutional amendments and referendum measure adopted by the people at the general election held November 2, 1970, became effective by virtue of the governor's proclamation of November 20, 1970:

CHAPTER NO. 14

MONTANA SESSION LAWS 1969

AN ACT TO SUBMIT TO THE ELECTORS OF MONTANA AN AMENDMENT TO SECTION 2, ARTICLE IX OF THE MONTANA CONSTITUTION CHANGING THE VOTING AGE TO NINETEEN YEARS.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 2, Article IX of the constitution of the state of Montana is amended to read as follows:

"Section 2. Every person of the age of *nineteen (19)* years or over, possessing the following qualifications, shall be entitled to vote at all general elections and for all officers that now are, or hereafter may be, elective by the people, and, except as hereinafter provided, upon all questions which may be submitted to the vote of the people or electors: First, he shall be a citizen of the United States; second, he shall have resided in this state one year immediately preceding the election at which he offers to vote, and in the town, county or precinct such time as may be prescribed by law. If the question submitted concerns the creation of any levy, debt or liability the person, in addition to possessing the qualifications above mentioned, must also be a taxpayer whose name appears upon the last preceding completed assessment roll, in order to entitle him to vote upon such question. Provided, first, that no person convicted of felony shall have the right to vote unless he has been pardoned or restored to citizenship by the governor: provided, second, that nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this constitution; provided, that after the

HeinOnline -- 1971 vol. II 1949 1971

expiration of five years from the time of the adoption of this constitution, no person except citizens of the United States shall have the right to vote."

Section 2. When this amendment is submitted to the electors of the state of Montana, there shall be printed on the ballot the full title and section 1 of this act and the following words:

"☐ For the above amendment.

☐ Against the above amendment."

Approved: January 31, 1969.

REFERENDUM NO. 67

CHAPTER NO. 65

MONTANA SESSION LAWS 1969

AN ACT TO SUBMIT TO THE ELECTORS OF THE STATE OF MONTANA THE QUESTION WHETHER THE LEGISLATIVE ASSEMBLY SHALL CALL A CONSTITUTIONAL CONVENTION.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. At the general election to be held in November 1970 there shall be submitted to the electors of the state of Montana the question whether the legislative assembly at the 1971 session, and in accordance with Article XIX, section 8 of the Montana constitution, shall call a convention to revise, alter, or amend the constitution of Montana.

Section 2. When the question is submitted to the electors of the state of Montana there shall be printed on the ballot the full title and section 1 of this act, an explanatory statement by the attorney general like that for constitutional amendments submitted to the electors, and the following words:

"☐ For calling a constitutional convention.

☐ Against calling a constitutional convention."

Approved: February 21, 1969.

HeinOnline -- 1971 vol. II 1950 1971

CHAPTER NO. 66

MONTANA SESSION LAWS 1969

AN ACT TO SUBMIT TO THE ELECTORS OF MONTANA AN AMENDMENT TO SECTION 9, ARTICLE XIX OF THE CONSTITUION OF MONTANA WHICH WOULD PERMIT THE LEGISLATIVE ASSEMBLY TO SUBMIT AT THE 1972, 1974 AND 1976 GENERAL ELECTIONS, IN ADDITION TO THE THREE AMENDMENTS OTHERWISE AUTHORIZED, AMENDMENTS PROVIDING FOR THE REORGANIZATION OF THE EXECUTIVE DEPARTMENT OF GOVERNMENT.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 9, Article XIX of the constitution of the state of Montana is amended to read as follows:

"Section 9. Amendments to this constitution may be proposed in either house of the legislative assembly, and if the same shall be voted for by two-thirds of the members elected to each house, such proposed amendments, together with the ayes and nays of each house thereon, shall be entered in full on their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one newspaper in each county (if such there be) for three months previous to the next general election for members to the legislative assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection and such as are approved by a majority of those voting thereon shall become part of the constitution. Should more amendments than one (1) be submitted at the same election, they shall be so prepared and distinguished by numbers or otherwise that each can be voted upon separately. Not more than three amendments to this constitution shall be submitted at the same election, *except that there may be submitted at each of the general elections held in the years 1972, 1974 and 1976, in addition to the three amendments otherwise authorized by this section, an amendment or amendments providing for the reorganization of the executive department of government which may include the revision or repeal of sections of this constitution relating to any boards, offices, and departments other than legislative and judicial offices. The reorganization of the executive department is a single subject, and an additional amendment relating to that subject authorized by this section may be submitted to the qualified electors of the state in the form of a title clearly expressing its subject.*"

HeinOnline -- 1971 vol. II 1951 1971

Section 2. When this amendment is submitted to the electors of the state of Montana there shall be printed on the ballot the full title and section 1 of this act and the following words:

"☐ For the above amendment.

☐ Against the above amendment."

Approved: February 21, 1969.

CHAPTER NO. EX. 1

MONTANA SESSION LAWS 1969

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO THE MONTANA CONSTITUTION ADDING A NEW SECTION TO PROVIDE THAT ALL EXECUTIVE AND ADMINISTRATIVE OFFICES, BOARDS, BUREAUS, COMMISSIONS, AGENCIES AND INSTRUMENTALITIES, EXCEPT THE OFFICE OF GOVERNOR, LIEUTENANT GOVERNOR, SECRETARY OF THE STATE, ATTORNEY GENERAL, STATE TREASURER, STATE AUDITOR, AND SUPERINTENDENT OF PUBLIC INSTRUCTION, SHALL BE ALLOCATED BY LAW AMONG NOT MORE THAN TWENTY DEPARTMENTS NO LATER THAN JULY 1, 1973; TO PROVIDE THAT SUBSEQUENTLY ALL NEW POWERS OR FUNCTIONS SHALL BE ASSIGNED TO PROVIDE AN ORDERLY ADMINISTRATIVE ORGANIZATION; PROVIDING FOR TEMPORARY COMMISSIONS IN ADDITION TO THE TWENTY PRINCIPAL DEPARTMENTS.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section in the Montana constitution which reads as follows:

"Section ..... All executive and aministrative offices, boards, bureaus, commissions, agencies and instrumentalties of the executive department of state government and their respective functions, powers, and duties, except for the office of governor, lieutenant governor, secretary of the state, attorney general, state treasurer, state auditor, and superintendent of public instruction, shall be allocated by law among and within not more than twenty (20) departments by no later than July 1, 1973. Subsequently, all new powers or functions shall be assigned to departments, divisions,

HeinOnline -- 1971 vol. II 1952 1971

sections, or units in such manner as will tend to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a principal department."

Section 2. When this amendment is submitted to the electors of the state of Montana, there shall be printed on the ballot the full title and Section 1 of this act and the following words:

"☐ For the above amendment.

☐ Against the above amendment."

Approved: March 17, 1969.

HeinOnline -- 1971 vol. II 1953 1971

HeinOnline -- 1971 vol. II 1954 1971

GENERAL INDEX

NOTE:

Index of Appropriations Follows General Index

HeinOnline -- 1971 vol. II 1955 1971

HeinOnline -- 1971 vol. II 1956 1971

INDEX TO TEXT

A

Pages 1-980 Volume I
Pages 981-1953 Volume II

	Sec.	Page
ADMINISTRATION, DEPARTMENT OF		
Division of communications established	Ch. 230	928
Executive reorganization	82A-201-82A-213	1105
ADOPTION		
Who may adopt, age requirement to 19 years	15	1000
AERONAUTICS COMMISSION		
Commission, members, annual per diem allowance	Ch. 347	1338
AGE		
Requirements to 18	Ch. 423	1559
Requirements to 19	Ch. 240	993
Requirements for qualification for professional licenses	Ch. 168	721
AGRICULTURE, DEPARTMENT OF		
Executive reorganization	82A-301-82A-305	1111
Fertilizer assessment for educational and experimental programs	Ch. 397	1428
Grain warehousemen, buyers, dealers, bonds, licenses and fees	Ch. 412	1490
Manufactured Dairy Products Act	Ch. 413	1492
Mustard seed, grading and testing	Ch. 31	413
Pesticides, Act for control of distribution of	Ch. 403	1437
Wheat assessment, payment of	Ch. 201	808
ALCOHOLIC BEVERAGES		
Age requirement to 19	Ch. 240	993
Liquor licenses, resorts	Ch. 322	1296
AMBULANCES		
Minimum uniform standards and regulations	Ch. 387	1401
APPLES		
Grades, orchard-run	Ch. 127	630
ARCHITECTS AND ENGINEERS		
Time limitation for bringing action for damages arising out of design, construction, etc.	Ch. 60	466
ATTORNEY GENERAL		
Criminal investigation division established	Ch. 219	864
ATTORNEYS		
Age requirement removed	11	733
Fees, right of prevailing party in action on contract	Ch. 259	1062
AVIATION		
Gasoline refund, correction	Ch. 13	359
Gasoline taxation	Ch. 204	817
Municipal and regional airport authorities	Ch. 433	1652

HeinOnline -- 1971 vol. II 1957 1971

B

	Sec.	Page
BANKS AND BANKING		
Emergency suspension of business, legal holidays	Ch. 32	415
State and national banks subject to Montana corporation license tax	Ch. 23	398
Supervision and examination fees	Ch. 256	1053
Taxation, national and state banks in like manner	Ch. 25	401
BARBERSHOPS		
Fees, license and inspection	Ch. 87	556
BLIND PERSONS		
White Cane Act enacted	Ch. 181	757
BOILERS		
Laws clarified and updated	Ch. 225	897
BONDS		
Maximum rate of interest	Ch. 234	939
See political subdivisions		
BUSINESS REGULATION, DEPARTMENT OF		
Executive reorganization	82A-401-82A-406	1115

C

CAPITOL BUILDING AND PLANNING COMMITTEE		
Created, functions	Ch. 232	932
CERTIFIED PUBLIC ACCOUNTANTS		
Age requirement removed	5	728
CESSPOOLS, SEPTIC TANKS & PRIVIES		
Licensing and control of cleaning	Ch. 76	525
CHILDREN		
Damages for malicious destruction of property, attorney's fees	Ch. 178	753
Delinquent, commitment to youth forest camps	Ch. 368	1376
Delinquent, district youth guidance homes authorized	Ch. 427	1592
Dependent and neglected, furnishing of board, clothing and personal needs	Ch. 264	1074
Information as to parents in preliminary inquiry as to delinquency	Ch. 195	799
CHIROPODY		
Age requirement removed	1	721
CITIES AND TOWNS		
Alley approaches, construction without special improvement district	Ch. 206	826
Bond issues		
authorization, form and contents, who may vote	5	940
malls and off-street parking assessments and bonds	14	949
off-street parking facilities, interest on bonds, redemption	20	955
sale of bonds	8	943
terms of bonds, rates of interest	4	940
urban renewal, issuance of bonds	21	956
water or sewer systems, sinking fund, refunding revenue bonds	13	945
See Special Improvement Districts below		
City warrants, rate of interest	12	945

HeinOnline -- 1971 vol. II 1958 1971

INDEX

	Sec.	Page
Commissioners and mayors, salaries	Ch. 33	419
Elections, time for holding	Ch. 343	1333
Excavating, information as to underground facilities prior to	Ch. 180	755
Firemen, volunteer, pension plan eligibility requirements	Ch. 80	531
Flood control and water conservation, special improvement district bonds for	Ch. 239	992
Industrial development projects, commercial enterprises	Ch. 386	1400
Interlocal cooperation commission, reporting and expiration dates	Ch. 70	511
Letting of bids, monetary limitation on purchases	Ch. 371	1382
Letting of contracts, competitive bidding procedure	Ch. 183	761
Mayors and aldermen, four-year terms	Ch. 193	797
Mayors and commissioners, salaries	Ch. 33	419
Plats, waiver of park dedication, approval of subdivisions	Ch. 19	370
Police courts, jurisdiction, possession, persons under 19	10	998
Police reserve fund, investment of	Ch. 84	554
Policemen		
qualifications, minimum age	Ch. 47	441
residence requirement waived	Ch. 66	501
retired, payment from police reserves fund when continuing employment	Ch. 369	1379
Poll tax, persons between ages 19 and 45	9	998
Powers of city council, creation of special lighting districts, property not within city limits	Ch. 280	1200
Removal of elective officers, mayor-council form of government	Ch. 329	1309
Sidewalks, curbs and gutters, construction without special improvement district	15	950
Special improvement districts		
bonds, determination of provisions of, maturity, interest, form	19	955
bonds and warrants, forms of	17	952
bonds and warrants, interest, redemption	18	954
creation, assessments, warrants	11	945
interest on assessments	16	951
methods of payments	Ch. 330	1310
sidewalk, curb and alley approach warrants, revolving fund to include	Ch. 255	1050
Water and sewer services, authority to furnish	Ch. 229	927
Zoning, subdivision regulations, building restrictions	Ch. 273	1162
See TAXATION		

CIVIL RIGHTS

Sex removed as ground for discrimination in employment and public accomodations	Ch. 39	433

CIVIL PROCEDURE

Filing claim for direct payment of money in improper venue, penalty	Ch. 176	749

COMMISSIONER OF LANDS AND INVESTMENTS

See State Board of Land Commissioners

COMMUNICATIONS

Division established in department of administration	Ch. 230	928

CONGRESSIONAL DISTRICTS

Teton county moved to second district	Ch. 187	772

CONSERVATION

Education in University System authorized	59	38
See FORESTS		

CONSERVATION DISTRICTS

State Conservation Districts Law	Ch. 431	1620

HeinOnline -- 1971 vol. II 1959 1971

INDEX

	Sec.	Page
CONSTITUTIONAL AMENDMENTS PROPOSED		
Legal voting age, residence and taxpayer requirement	Ch. 159	709
CONSTITUTIONAL CONVENTION		
Declaratory judgment action directed	Ch. 3	39
Provision for	Ch. 296	1224
Provision for, amendment of earlier Act	Ch. 1	1749
CONSUMER LOANS		
Annual examination of licensees, charges	7	938
Supplementary license permitting additional lending authority	Ch. 233	933
CONTRACTORS		
Public, deposit of certificates of deposit for withdrawal of funds	Ch. 101	568
COOPERATIVES		
Electric and telephone, disposition of property	Ch. 17	367
Territorial Integrity Act of 1971	Ch. 7	345
CORPORATIONS		
Annual reports, time for filing	Ch. 6	344
Fees charged by secretary of state	Ch. 185	762
Income tax where not subject to corporation tax	Ch. 82	541
Mergers and consolidations of stock insurers	Ch. 151	684
see TAXATION		
COSMETOLOGY		
Age requirement for teachers removed	2	722
Fees, licenses, certificates	Ch. 324	1303
COSTS		
Poor person, defense of action without payment of fees	Ch. 71	512
COUNTIES		
Bond issues		
county road and bridge bonds, terms, power to redeem, interest	30	965
exchange of bonds for amortization bonds	24	962
rural improvement districts, forms and terms of warrants and bonds, payment of contracts	22	958
sale of bonds	9	944
term of bonds, power to redeem, maximum interest	6	941
toll bridge bonds, maturity, interest	29	964
water and sewer district, resolution for	26	962
see Local improvement districts, roads, below		
Budget, hearing, adoption, fixing tax levies, transfer of excess funds	Ch. 5	1839
Contracts, competitive bidding procedures	Ch. 153	687
Deputy sheriffs, marshals, residence requirement waived	Ch. 66	501
Deputy sheriffs, qualifications and tenure	Ch. 81	538
Elections		
county auditor's office, term, age requirement	3	1559
county office, general qualifications for, age requirement	1	1559
district and township offices, qualifications for, age requirement	2	1559
Fairs, appropriation and tax levy for	Ch. 154	687
Flood control and water conservation, rural improvement district bonds for	Ch. 239	992
Hospital districts, appointment of trustee where no nomination	Ch. 399	1431
Local improvement districts, roads		
installment payment procedure, interest rate	27	963
order for issuance of bonds, form, contents	28	963
Medical assistance to persons in state institutions, counties relieved of payments	Ch. 261	1064
Park boards, membership, funds, secretary	Ch. 290	1215
Plats, approval and regulation of subdivisions	Ch. 19	370

HeinOnline -- 1971 vol. II 1960 1971

	Sec.	Page
Recording of instruments by county clerk, use of abstracts	1	859
Registered warrants, interest	23	961
Registry of county and school district warrants, interest	25	962
Salaries of officers	Ch. 265	1074
Sheriffs		
fees for board of prisoners	Ch. 420	1544
motor vehicles, providing for, liability insurance	Ch. 340	1330
salaries of deputies	Ch. 365	1370
Zoning, subdivision regulations, building restrictions	Ch. 273	1162
COURTS		
District		
judges' salaries	Ch. 4	1836
probation officers, juvenile courts, salaries	Ch. 318	1291
Supreme, judges' salaries	Ch. 314	1272
CREDIT UNIONS		
Directors, supervisory committee, loans, reserves and dividends	Ch. 213	839
CRIMES		
Criminal possession of dangerous drugs, penalty	Ch. 228	926
Dismissal of action not brought to trial within 6 months	Ch. 172	747
Explosives, possession of made felony	Ch. 304	1244
Possession of device for breaking into vending or coin operated machine	Ch. 172	746
CRIMINAL INVESTIGATION		
Division established in office of attorney general	Ch. 219	864

D

DAIRY PRODUCTS		
Manufactured Dairy Products Act	Ch. 413	1492
DENTISTS		
Examination, fees, U.S. citizen requirement removed	Ch. 287	1210
DESCENT AND DISTRIBUTION		
Succession and distribution of estates	Ch. 217	858
DISPLACED PERSONS		
Relocation assistance, acquisition for land for federally assisted programs	Ch. 3	1825
DRUGS		
Drug and alcohol courses for teachers and education required in schools	Ch. 396	1427
See FOOD AND DRUGS		

E

EDUCATION, DEPARTMENT OF		
Executive reorganization	82A-501-82A-510	1117
ELECTIONS		
Absentee ballots		
delivery to election judges, procedure when too late	4	1048
elector in United States service, defined	Ch. 249	1026
federal post card application, use of	Ch. 250	1027

HeinOnline -- 1971 vol. II 1961 1971

INDEX

	Sec.	Page
mailing procedure, gummed flaps, marking instrument	Ch. 246	1023
oath of elector in United States service, who may administer	Ch. 248	1025
Cancellation of registry for failure to vote, when vote is by absentee ballot	1	1046
Cancellation of registry on felony conviction, lists	Ch. 299	1238
Candidates' itemized statements, length of time to be held as public records	Ch. 251	1027
Certificates of nomination of candidates for municipal offices, time for filing	Ch. 59	465
Cities and towns, time for holding	Ch. 343	1333
Community colleges		
annexation of territory to district	Ch. 162	712
determination of approval, disapproval, procedures	Ch. 164	714
See UNIVERSITY SYSTEM, SCHOOLS, PUBLIC, REVISION		
Constitutional amendment, legal voting age, residence and taxpayer requirement	Ch. 159	709
Creation of public debt or liability, qualifications of electors	Ch. 159	693
False answers concerning qualifications of electors	Ch. 166	718
Judges and clerks, appointment and instruction	Ch. 258	1060
Marking precinct register book before elector votes	3	1048
Name and party designation of candidate, printing on ballot, persons nominated by more than one party	2	1047
New-voter lists compiled by Highway Patrol, county by county basis	Ch. 257	1059
Nominating petitions of independent candidates, secretary of state to determine number of signatures needed	Ch. 6	1841
Qualifications of electors	Ch. 120	620
Reapportion of legislative assembly	Ch. 3	1777
Reapportionment, second plan	Ch. 8	1844
Referendum, sales tax and increased income tax surtax	Ch. 9	1850
Registration, close of, procedure, notice	Ch. 385	1400
Registration of electors, qualifications	Ch. 119	619
Registration of persons terminated from United States service, time for	Ch. 247	1024
Residence, rules for determining, employment in service of U.S. or state of Montana	Ch. 394	1422
School, qualifications of electors	Ch. 118	619
School district of residence, recording when registering electors	Ch. 243	1015
Taxpayer qualification in school elections, repealed	Ch. 83	543
Teton county moved to second congressional district	Ch. 187	772
Vacancies before and after primary, filling	5	1049
See COUNTIES, CITIES & TOWNS, SCHOOLS		
ELECTRICITY		
Line construction, guy insulation	Ch. 344	1335
EMINENT DOMAIN		
Airport authorities, for municipal and regional airports	9	1659
Commissioners, appointment and meetings, age 18	19	1577
Relocation assistance, acquisition of lands for federally assisted programs	Ch. 3	1825
EMPLOYMENT AGENCY ACT	Ch. 430	1612
EMPLOYMENT SECURITY COMMISSION		
Bond sale for construction of Capitol building addition	Ch. 418	1538
Bond sale for construction of office buildings within state	Ch. 419	1541
Per diem pay of members	Ch. 65	500
ENGINEERS		
Practice defined, fees	Ch. 364	1367
ENVIRONMENT		
Montana Environmental Policy Act	Ch. 238	984

HeinOnline -- 1971 vol. II 1962 1971

INDEX

	Sec.	Page
ESCHEATED ESTATES		
Administration of sales to board of equalization from state treasurer	Ch. 156	689
Special assistant attorney general for, salary	Ch. 377	1390
EUGENICS		
State board, per diem, expenses	Ch. 74	524
EVIDENCE		
Confidentiality between student and school personnel	Ch. 61	467
EXECUTIVE REORGANIZATION ACT OF 1971	Ch. 272	1090
Administratively created agencies prohibited	82A-111	1101
Advisory councils, creation	82A-110	1098
Agencies abolished with split transfers	82A-113	1102
Agencies or functions not assigned	82A-114	1103
Allocation or transfer for administrative purposes only	82A-108	1097
Definitions	82A-103	1092
Department of administration	82A-201-82A-213	1105
Department of agriculture	82A-301-82A-305	1111
Department of business regulation	82A-401-82A-406	1115
Department of education	82A-501-82A-510	1117
Department of fish and game	82A-2001-82A-2004	1160
Department of health and environmental sciences	82A-601-82A-609	1121
Department of highways	82A-701-82A-708	1125
Department of institutions	82A-801-82A-807	1128
Department of intergovernmental relations	82A-901-82A-906	1130
Department of labor and industry	82A-1001-82A-1010	1134
Department of law enforcement and public safety	82A-1201-82A-1208	1138
Department of livestock	82A-1301-82A-1305	1142
Department of military affairs	82A-1401-82A-1404	1143
Department of natural resources and conservation	82A-1501-82A-1511	1145
Department of professional and occupational licensing	82A-1601-82A-1606	1148
Department of public service regulation	82A-1701-82A-1703	1155
Department of revenue	82A-1801-82A-1806	1155
Department of social and rehabilitation services	82A-1901-82A-1908	1157
Department of state lands	82A-1101-82A-1104	1137
Department heads		
access to agencies and records before assuming duties	82A-109	1098
appointment and qualifications	82A-106	1095
duties and powers	82A-107	1096
Departments created by Act	82A-104	1094
Federal aid, conflicts with requirements for	82A-122	1105
Future functions	82A-115	1103
Governor, policy-making and administrative powers	82A-105	1095
Legal proceedings, pending	82A-119	1104
Miscellaneous transfers	82A-2103	1161
Policy and purpose, declaration	82A-102	1091
Quasi-judicial boards	82A-112	1101
References to agency as it existed before transfer	82A-121	1104
Rights and duties under existing transactions	82A-120	1104
Rights of state personnel	82A-116	1103
Rights to property on transfer of function	82A-117	1103
Rules, regulations and orders on transfer of function	82A-118	1104
EXECUTORS AND ADMINISTRATORS		
Bonds, when heirs over 18	17	1576
Conveyance of real property, notice of hearing, when heirs over 18	18	1577
Distribution of estate within two years	Ch. 260	1063

HeinOnline -- 1971 vol. II 1963 1971

F

	Sec.	Page
FALCONRY		
Licensing and regulation	Ch. 309	1255
FIREMEN		
Volunteer, pension plan eligibility requirements	Ch. 80	531
FIREWORKS		
Regulation, sale by persons under 18	14	1573
FISH AND GAME		
Archers, use of livestock and vehicles, regulation	Ch. 106	578
Caged fish in public waters, regulation	Ch. 126	629
Executive reorganizattion	82A-2001-82A-2004	1160
Falconry, licensing and regulation, bird names	Ch. 309	1255
Fishing stream protection, plans for construction of hydraulic projects	Ch. 133	645
Game farm permits, buffalo exempt	Ch. 78	529
Game fish, acipenser added	Ch. 46	440
Gates of the Mountains game preserve created	Ch. 115	603
Hunter orange garments required for hunters and guides	Ch. 305	1245
Hunting in careless or reckless manner, penalties	Ch. 346	1338
Licenses and fees	Ch. 129	633
Licenses and permits, forfeiture for littering	Ch. 43	438
Methods of catching fish	Ch. 8	351
Mountain lions		
classified as game animal, stizostedion spelling corrected	Ch. 189	777
stock-killing, taking and possession, pursuit	Ch. 177	750
use of dogs for hunting	Ch. 184	762
Outfitters and guides, licensing and regulation	Ch. 221	869
Powers and duties of commission, regulation of motor-driven boats on public fishing waters	Ch. 279	1193
Snowmobiles, unlawful operation, driving game or livestock	9	1676
Special licenses, grizzly bear, seven-year waiting period after taking	Ch. 48	442
FLOUR		
Enrichment of flour and bread	Ch. 274	1176
FOOD AND DRUGS		
Drug dispensing by medical practitioners	Ch. 311	1264
Flour and bread enrichment	Ch. 274	1176
Food, drug and cosmetic law, amendments for labeling and packaging	Ch. 171	736
Food service establishments, perishable food dealers	Ch. 130	638
Manufactured Dairy Products Act	Ch. 412	1492
See Milk Control Board		
FORESTS		
Conservation		
lands and conservation defined	1	411
use of monies for fire prevention and conservation	2	413
Ex officio fire wardens, what laws to enforce	Ch. 276	1183
Fire-fighting equipment, amount boards of county commissioners authorized to appropriate for	Ch. 337	1326
Reduction and management of fire hazards, contracts with owners, cash bonds	Ch. 147	669
Traffic laws on forest development roads	Ch. 139	661

HeinOnline -- 1971 vol. II 1964 1971

G

	Sec.	Page
GRASS CONSERVATION		
Fees imposed against districts	Ch. 20	373
Grazing preferences, transfer	Ch. 24	399

H

HEALTH AND ENVIRONMENTAL SCIENCES, DEPARTMENT OF, executive reorganization	82A-601-82A-609	1121
HIGHWAY PATROL		
Board, authorized to make rules and regulations	Ch. 245	1022
Identification cards to persons over 18, non-drivers	Ch. 53	447
Salaries paid from highway funds	Ch. 285	1209
HIGHWAYS AND HIGHWAY DEPARTMENT		
Apportionment of state construction funds, judgments made to contractors	Ch. 283	1207
Bond issue for state highway building and complex	Ch. 356	1353
Compensation payable to persons displaced by highway construction	Ch. 426	1588
Executive reorganization	82A-701-82A-708	1125
Federal-aid, establishment of speed zones in cities and towns	Ch. 89	558
Forest development roads, traffic laws on	Ch. 139	661
Funds, allocation to counties, cities, towns, expenditure	Ch. 384	1396
General road tax, county tax levies	Ch. 199	806
Littering, control, penalty, enforcement	Ch. 323	1301
Outdoor advertising, amendments in regular session	Ch. 220	865
Outdoor advertising, control of	Ch. 2	1816
Peace officers, certain employees as	Ch. 242	1013
Permits for excess size and weight	Ch. 334	1319
Sale of surplus equipment, proceeds	Ch. 11	353
Snowmobiles, unlawful operation on streets and highways	8	1675
Tire equipment, restrictions	Ch. 194	798
Weigh stations, operation, weight compliance	Ch. 321	1295
White Cane Act for the blind, enacted	Ch. 181	757
See Counties, Local Improvement Districts and Bond Issues		
HOUSING AUTHORITIES		
Bonds, form and sale of	37	971
Creation, powers	Ch. 281	1203

I

IMPLIED CONSENT		
Law enacted	Ch. 131	640
INDIANS		
Pupils, compulsory school attendance and tribal agreements	122	127
University attendance, nonpayment of fees	56	36
University attendance, nonpayment of fees	Ch. 350	1343
INDUSTRIAL ACCIDENT BOARD		
Boiler laws clarified and updated	Ch. 225	897

HeinOnline -- 1971 vol. II 1965 1971

INDEX

	Sec.	Page
INDUSTRIAL DEVELOPMENT PROJECTS		
Commercial enterprises included	Ch. 386	1400
INSTITUTIONS		
Alcoholic beverages or drugs, penalty for distribution to patients or inmates	Ch. 362	1366
Escape of patient or inmate, penalty for aiding	Ch. 361	1365
INSTITUTIONS, DEPARTMENT OF		
Delinquent children, commitment to department for evaluation and transfer to youth forest camps	Ch. 368	1376
District youth guidance homes, supervision	Ch. 427	1592
Division of mental retardation established	Ch. 111	592
Executive reorganization	82A-801-82A-807	1128
Foster and group home care per diem charges as aftercare	Ch. 191	794
Purchase of services in local communities for mentally retarded	Ch. 165	715
Transfer of prisoners under 21 to Swan River Youth Forest Camp	Ch. 367	1375
INSTRUMENTS		
Definition to include abstracts	Ch. 218	859
INSURANCE		
Age requirement		
adjuster's license	6	1562
benefit societies, membership	9	1565
farm mutual insurer, forming	8	1565
incorporation	7	1563
resident agents, solicitors, other than life	5	1561
Assignment of policies, group certificates	Ch. 167	720
Automobile liability, cancellation	Ch. 262	1070
Benevolent associations, provisions of law applicable, annual license	Ch. 297	1234
Cancellation of professional liability policies or increasing premiums	Ch. 210	832
Cancellation of professional liability policies or increasng premiums, notice	14	363
Cancellation or nonrenewal of fire policies, 30-day notice	Ch. 374	1387
Disability and workmen's compensation freedom of choice of practitioner, clinical psychologist	Ch. 402	1436
Group medical for public employees, employer contribution	Ch. 382	1394
Guarantee association for all insurers, provisions	Ch. 63	470
Handicapped children, continuation of coverage	Ch. 298	1236
Holding companies, control and regulation	Ch. 64	480
Mergers and consolidations of stock insurers	Ch. 151	684
State buildings and their contents, plan for	Ch. 86	555
State fire marshal's office, tax for maintenance	Ch. 110	592
Tax on net insurance premiums, made permanent	Ch. 237	981
INTERDEPARTMENTAL ADVISORY COUNCIL		
Membership increaased	Ch. 85	555
INTERGOVERNMENTAL RELATIONS, DEPARTMENT OF		
Executive reorganization	82A-901-82A-906	1130
INTERLOCAL COOPERATION COMMISSION		
Reporting date and expiration date	Ch. 70	511
INTERSTATE COMPACT ON MENTAL HEALTH		
Enacted	Ch. 112	594

HeinOnline -- 1971 vol. II 1966 1971

J

	Sec.	Page
JOINT TENANCY		
Created by direct conveyance, validated	Ch. 9	352
JURIES		
Challenges, number of peremptory	Ch. 300	1239
Jurors' and witnesses' fees, increased	Ch. 332	1316
Six-person, when	Ch. 293	1221
Who competent to act, age requirement to 19	20	1003
Who exempt from duty	Ch. 425	1587
JUVENILES		
Courts, probation officers, salaries and qualifications	Ch. 428	1595
District youth guidance homes authorized	Ch. 427	1592

L

LABOR		
Employment Agency Act	Ch. 430	1612
Employment, persons under 19, selling liquor at retail	Ch. 240	999
Female employees, 8-hour work day limitation removed	Ch. 51	445
Minimum wage law	Ch. 417	1533
Report of alien employees repealed	Ch. 144	667
Sex removed as ground for discrimination in employment	Ch. 39	433
LABOR AND INDUSTRY, DEPARTMENT OF		
Executive reorganization	82A-1001-82A-1010	1134
LANDOWNER NOTIFICATION ACT		
Enacted	Ch. 335	1324
LAW ENFORCEMENT AND PUBLIC SAFETY, DEPARTMENT OF		
Executive rerorganization	82A-1201-82A-1208	1138
LEGISLATIVE ASSEMBLY		
Apportionment	Ch. 3	1777
Apportionment	Ch. 8	1844
Duties and compensation of employees	Ch. 1	1
Per diem, mileage and expenses of members	Ch. 4	43
LEGISLATIVE COUNCIL		
Supervision of Capitol building and planning committee	Ch. 232	932
LIBEL		
Cable television, opportunity to correct before action brought	Ch. 58	464
LIENS, MECHANICS'		
Substitution of bond for security	Ch. 338	1327
Who entitled, perfecting, time for, notice of completion	Ch. 408	1476
LIQUOR CONTROL		
Age requirement to 19	Ch. 240	993
Hours stores to be open	Ch. 62	469
Indebtedness incurred by board, limitation	Ch. 77	528
Liquor licenses, resorts	Ch. 322	1296
Salaries of employees of board	Ch. 376	1389
Sample regulations, record keeping by board	Ch. 72	512

HeinOnline -- 1971 vol. II 1967 1971

	Sec.	Page
LITTERING		
Licenses forfeited for littering	Ch. 43	438
Litter control law, enacted	Ch. 323	1301
LIVESTOCK		
Inspection, before sale to feeder purchaser	Ch. 149	671
Livestock Dealer Licensing Act	Ch. 414	1519
Transportation, certificates of convenience and necessity	Ch. 275	1180
LIVESTOCK, DEPARTMENT OF		
Executive reorganization	82A-1301-82A-1305	1142
LOANS		
Legal interest on	38	972
LONG-RANGE BUILDING PROGRAM		
See State Finance		

M

MANUFACTURED DAIRY PRODUCTS ACT		
Enacted	Ch. 413	1492
MARIHUANA		
Penalty for criminal possession of dangerous drugs	Ch. 228	926
MARRIAGE		
Age requirement to 19	13	999
License, waiver of 5-day waiting period, authority to clerk of court	Ch. 50	445
MEDICAL PRACTICE ACT		
Amendment to include doctors of osteopathy	Ch. 203	810
MILITARY AFFAIRS, DEPARTMENT OF		
Executive reorganization	82A-1401-82A-1404	1143
MILK CONTROL BOARD		
Amendments and additions to laws	Ch. 107	579
MINES AND MINING		
Coal mining leases, terms, exchange	Ch. 291	1219
Landowner Notification Act	Ch. 335	1324
Licensing, permits, reclamation, administration, appeal procedure	Ch. 252	1028
Location and assessment work requirements on claims	Ch. 4	1780
Metal and nonmetallic, safety laws updated	Ch. 310	1258
Montana Open Cut or Strip Mined Land Reclamation Act	Ch. 224	888
Pneumoconiosis, as occupational disease	Ch. 190	778
Strip coal mines license tax	Ch. 355	1351
MINIMUM WAGE LAW		
Enacted	Ch. 417	1533
MINORS		
Attendance at public dance hall, prohibition removed	Ch. 114	603
Defined, under 19 years of age	16	1000
Psychiatric or psychological counseling, giving consent for	Ch. 315	1273
See Age		
MOBILE HOMES		
Uniform construction standards for	Ch. 348	1339
MONTANA ADMINISTRATIVE PROCEDURE ACT		
Enacted	Ch. 2	1759

HeinOnline -- 1971 vol. II 1968 1971

	Sec.	Page
MONTANA ENVIRONMENTAL POLICY ACT		
Enacted	Ch. 238	984
MONTANA HIGHER EDUCATION CODE		
See University System	Ch. 2	6
MONTANA OPEN CUT OR STRIP MINED LAND RECLAMATION ACT		
Enacted	Ch. 224	888
MORTICIANS		
Age requirement removed	9	731
MOSQUITO CONTROL		
Temporary abatement council and control program	Ch. 186	769
MOTOR CARRIERS		
Class C Certificate, operation pursuant to government contract	Ch. 69	506
Fees for filing documents	Ch. 67	504
Fines for violation of Act	Ch. 68	505
Tax on gross operating revenue	Ch. 383	1395
Transportation of livestock, certificate of convenience and necessity	Ch. 275	1180
See Railroad and Public Service Commission		
MOTOR VEHICLES		
Accident, determination of security required, monetary limits	Ch. 56	450
Accident reporting, monetary limits	Ch. 55	449
Accident reporting, monetary value	Ch. 52	446
Certificates of registration and ownership, motorcycle-type vehicles as motor vehicle	Ch. 179	753
Concrete mixer vehicles, fees	Ch. 102	569
Demonstration permits for licensed truck or trailer dealers	Ch. 209	830
Disabled veterans, free license plates	Ch. 215	849
Drivers' licenses, extended to 4 years	Ch. 288	1213
Gross weight markings, requirements removed	Ch. 37	428
Intoxication of driver		
measurement of alcohol in blood	Ch. 132	643
test for, consent	Ch. 131	640
Junked, placing in streams a misdemeanor	Ch. 319	1292
License plates		
application for dealer's license, motorcycles	2	917
fees, dealer and vehicle	4	921
replacement of plates or validation devices	3	921
terms of, types, motorcycle dealers	1	914
licenses issued to operators and chauffeurs, age requirement	4	1560
Motor pool, state, operation by highway department	Ch. 320	1293
Operating record, fee for furnishing	Ch. 381	1394
Registrar, duties of, renewal of registration, payment of license fees	Ch. 214	843
Registration		
grace period, penalty	8	660
new registration required for transferred vehicle	7	660
new motor vehicles, rear window sticker	4	659
renewal of	1	654
transfer of license plates to other vehicle	6	660
transfer of title or interest	2	655
windshield sticker, temporary	5	659
used motor vehicles, transfer to and from dealers, rear window stickers	3	657
Roadblocks, to check drivers' licenses	Ch. 18	368
School buses, overtaking and passing, requirements	Ch. 45	439
Speed limits, trucks	Ch. 253	1045

HeinOnline -- 1971 vol. II 1969 1971

	Sec.	Page
Special mobile equipment dealers, use of dealers' license plates	Ch. 244	1017
Tire equipment restrictions	Ch. 194	798
Truck-trailer combinations, moving in local delivery zone	Ch. 212	838
See Highways		

N

NAMES

Application for change, age requirement to 19	21	1003
Changes decreed in 1969, 1970		1944

NARCOTIC DRUGS

Criminal possession, penalty, marihuana	Ch. 228	926

NURSING HOME ADMINISTRATORS

Age requirement removed	10	732

NATURAL RESOURCES AND CONSERVATION, DEPARTMENT OF

Executive reorganization	82A-1501-82A-1511	1145

O

OCCUPATIONAL DISEASE ACT

Amendments to conform with P.L. 91-173, pneumoconiosis	Ch. 190	778

OCCUPATIONAL HEALTH ACT OF MONTANA

Enacted	Ch. 316	1274

OFFICES & OFFICERS

Age requirement for holding civil office to 19	14	1000
Public officers, salary increase	Ch. 314	1272

OIL AND GAS

Unitization of pools, when	Ch. 150	679

OPTOMETRY

Annual registration fee of optometrists	Ch. 75	525
Educational studies, required annually of optometrists	Ch. 79	531
Optometric services included in welfare	Ch. 155	688

OSTEOPATHY

Medical Practice Act amended to include doctors of osteopathy	Ch. 203	810

P

PARENT AND CHILD

Damages for malicious destruction of property by children, attorney's fees	Ch. 178	753
Information as to parents in preliminary inquiry as to delinquency	Ch. 195	799

PAUPERS

Poor person, defense of action without payment of fees	Ch. 71	512

PESTICIDES

Act for control and distribution of	Ch. 403	1437

HeinOnline -- 1971 vol. II 1970 1971

INDEX

	Sec.	Page
PHARMACY		
Age requirement removed	4	727
Dispensing of drugs by medical practitioners	Ch. 311	1264
"Intern" for "assistant pharmacist", fee increases	Ch. 241	1005
PHYSICAL THERAPISTS		
Age requirement removed	8	731
PHYSICIANS		
Age requirement removed	3	725
Medical Practice Act amended to include doctors of osteopathy	Ch. 203	810
Dispensing of drugs by medical practitioners	Ch. 311	1264
PNEUMOCONIOSIS		
Occupational Disease Act amended to conform with P.L. 91-173	Ch. 190	778
PRIVILEGED COMMUNICATIONS		
Confidentiality between student and school personnel	Ch. 61	467
PROBATION OFFICERS		
Juvenile courts, salaries	Ch. 318	1291
Salaries and qualifications	Ch. 428	1595
PROFESSIONAL AND OCCUPATIONAL LICENSING, DEPARTMENT OF		
Executive reorganization	82A-1601-82A-1606	1148
PSYCHOLOGISTS		
Licensing and regulation, board created	Ch. 73	514
PUBLIC ACCOUNTANTS		
Age requirement removed	6	729
PUBLIC EMPLOYEES		
Annual vacation leave	Ch. 121	622
Group medical insurance for, employer's contribution	Ch. 382	1394
Holidays, falling on employee's day off	Ch. 108	591
Leave of absence to attend training camp	Ch. 113	602
Per diem allowance, District of Columbia	Ch. 10	352
Sick leave, uniform benefits	Ch. 92	562
PUBLIC EMPLOYEES RETIREMENT SYSTEM		
Adjusted retirement allowance	3	610
Employer's contribution	4	611
Service retirement allowance, computation	2	605
Voluntary service retirement, age, reinstatement	1	604
PUBLIC HEALTH AND SAFETY		
Ambulances, minimum standards established	Ch. 387	1401
Boilers, laws clarified and updated	Ch. 225	897
Blood, transfusions as service, testing, labeling	Ch. 284	1208
Cesspools, septic tanks and privies, licensing and control of cleaning	Ch. 76	525
Drug and alcohol courses for teachers, education in schools	Ch. 396	1427
Executive reorganization	82A-601-82A-609	1121
Excavations of city streets, information as to underground facilities	Ch. 180	755
Explosives, possession of, felony	Ch. 304	1244
Fireworks regulation, sale by persons under 18	14	1573
Flour and bread, enrichment	Ch. 274	1176
Interstate Compact on Mental Health enacted	Ch. 112	594
Junked motor vehicles, placing in streams	Ch. 319	1292
Litter control law, enacted	Ch. 323	1301
Littering, licenses forfeited for	Ch. 43	438
Local health officers, qualifications	Ch. 196	800
Long-term care facility, intermediate care facilities included	Ch. 197	803
Occupational Health Act of Montana	Ch. 316	1274

HeinOnline -- 1971 vol. II 1971 1971

	Sec.	Page
Refuse disposal districts, fees, joint duties of board, county attorney	Ch. 136	650
Sanitarians, advisory council under department of health, registration, fees	Ch. 271	1087
Sanitary inspections, jails included	Ch. 336	1325
Ski lifts, regulation, inspection, fees	Ch. 436	1681
Venereal disease, confidentiality of information	Ch. 135	649
Water and waste water operators certification board, attached to board of health	Ch. 306	1246
Water Pollution Control Act, enacted	Ch. 21	374
PUBLIC OFFICIALS		
Salary increases, certain elected state officials	Ch. 314	1272
PUBLIC SERVICE REGULATION, DEPARTMENT OF		
Executive reorganization	82A-1701-82A-1703	1155
PUBLIC UTILITIES		
Underground Conversion of Utilities Law, enacted	Ch. 429	1596
PUBLIC WELFARE		
Aid to dependent children		
residence requirement	Ch. 90	559
unemployed father seeking employment, county share of participation	Ch. 373	1385
Dependent and neglected children, furnishing of board, clothing and personal needs	Ch. 264	1074
Disabled persons, eligibility for aid, residence requirements	Ch. 379	1392
Emergency assistance for families with children	Ch. 292	1220
Medical assistance		
persons in state institutions, counties relieved of payments	Ch. 261	1064
relative's responsibility, persons under 18	15	1575
Needy blind, eligibility for aid, residence requirement	Ch. 378	1391
Old age assistance, residence requirement	Ch. 294	1221
Optometric services authorized	Ch. 155	688
Silicosis, disability defined, persons in state institutions, payment to beneficiary	Ch. 360	1364
Silicosis, eligibility requirements for aid, amount of payments	Ch. 105	576

R

RAILROAD AND PUBLIC SERVICE COMMISSION		
Annual report, rules for equipment, brakes, conformity with U.S. department of transportation	Ch. 124	625
Powers, altering classification or rate, approval of changes or revisions, hearings	Ch. 227	923
Supervision of motor carriers, different rates authorized	Ch. 182	759
Temporary motor carrier authority, granting of	Ch. 148	670
See Motor Carriers		
REAL ESTATE BROKERS		
Licenses, age requirement	10	1566
REAPPORTIONMENT		
Legislative assembly	Ch. 3	1777
Legislative assembly, second plan	Ch. 8	1844
RECORDING TRANSFERS		
Use of abstracts of instruments	Ch. 218	859
REFERENDUM MEASURES ADOPTED		
Constitutional amendment		
executive reorganization		1952

HeinOnline -- 1971 vol. II 1972 1971

	Sec.	Page
submission of amendments providing for executive reorganization at 1972, 1974, 1976 general elections in addition to three amendments allowed		1951
voting age		1949
Constitutional convention, calling		1950
REFERENDUM MEASURES PROPOSED		
Constitutional amendment, legal voting age, residence and taxpayer requirements	Ch. 159	709
Sales tax and increased income tax surtax	Ch. 9	1850
RELOCATION		
Displaced persons, assistance, acquisition of land for federally assisted programs	Ch. 3	1825
RESOLUTIONS		
House Joint Resolutions		
clerk of district court, constitutional amendment study for consolidation with other county offices		1720
College of Mineral Science and Technology construction of environmental research center		1809
College of Mineral Science and Technology, construction of petroleum and engineering science building		1805
College of Mineral Science and Technology, construction of physical education complex		1810
consumer education, teaching in public schools		1696
detergents, research to find substitute for phosphates		1710
Dixon, former Governor Joseph M., bust in rotunda		1699
fish hatchery in Lincoln County		1698
forests, sustained yield and multiple purpose Act endorsed, slash burning elimination		1707
Fort Peck Reservoir, suitable aquatic environment for fish		1711
grain, reduction of conserving base acres in state		1718
home rule for municipalities, study by legislative council		1712
Indian rock paintings, protection of		1704
judicial district boundaries and number of judges, study by legislative council		1708
logging industry, portrayal in historical society museum		1702
Montana State University, construction of physical education facilities, consent		1714
no-fault motor vehicle insurance study by legislative council		1706
Northern Montana College, renovation of Armory Gym		1804
Northern Montana College, renovation of Donaldson Hall		1804
pollution problems, need for rational solutions		1716
prisoners of war and men missing in action, support of		1702
public lands, constitutional amendment for multiple-use classification		1709
public school foundation program, computerizing		1701
public schools, self-insurance fund study by legislative council		1705
public welfare programs, study by legislative council		1695
rangeland resource program, cooperation with		1714
ROTC training, endorsement		1700
schools, study of standard plans for construction by legislative council		1721
Selective Service Act, review of national policy		1717
tax-exempt status of state bonds, maintenance		1697
University of Montana, construction of sports complex at Fort Missoula		1806
University of Montana, construction of swimming pool		1807
University of Montana, renovation and addition to fieldhouse		1807
University of Montana, renovation of health service building		1805
University of Montana, renovation of women's center		1808

HeinOnline -- 1971 vol. II 1973 1971

	Sec.	Page
University system, study of teacher tenure policies by legislative council		1713
Senate Joint Resolutions		
Beaverhead Rock landmark, preservation as national park or monument		1735
bingo, constitutional amendment to legalize		1729
constitutional amendment, right to vote at age 18, ratification		1810
constitutional convention, use of legislative facilities, consent		1734
educational system, duplication of programs, study by legislative council		1730
freight rates, equitable throughout the states		1736
Indians, Governor's task force on problems, support of recommendations		1723, 1724
Kootenai River mile 208.9, construction of reregulating dam		1726
laboratories, state, study by legislaative council		1739
legislative assembly, reservation of third floor of Capitol		1737
Lincoln back country and Scapegoat mountain area, inclusion in National Wilderness System		1738
medicare requirements, plight of health facilities because of stringency		1728
mining operations on public lands, updating of rules and regulations		1731
Missouri Breaks scenic recreation river, establishment		1727
Missouri River, historical markers for floaters and boaters		1741
Safeguard ABM missile sites, access roads to		1742
schools, proprietary in Montana, study by board of education		1746
South-central Montana Development Federation, retention		1733
sprinkler system requirement in certain hospitals, two-year postponement asked		1721
welfare, proposed federal family assistance Act, approval		1741
RETAIL INSTALLMENT SALES		
Charge accounts, finance charge limitation	Ch. 416	1528
REVENUE, DEPARTMENT OF		
Executive reorganization	82A-1801-82A-1806	1155
REVISED CODES OF MONTANA		
Replacement volumes, adoption	Ch. 207	828
ROADBLOCKS		
Authorized to check drivers' licenses	Ch. 18	368
RURAL ELECTRIC & TELEPHONE COOPERATIVES		
Territorial Integrity Act of 1971	Ch. 7	345

S

SCHOOLS, AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF LAWS RELATING TO PUBLIC SCHOOLS	Ch. 5	43
(Note: Amendments to this Act made by the Forty-second Legislative Assembly appear below under SCHOOLS; also see University System, Community Colleges.)		
Adult education		
authorized	384	295
defined	383	295
fund, separate	386	295
tuition	387	296
trustees' policies for	385	295
Board of education		
defined	2	45

HeinOnline -- 1971 vol. II 1974 1971

INDEX

	Sec.	Page
ex officio regents	7	46
meetings	5	46
membership	3	45
officers and quorum	4	46
per diem and expenses	6	46
powers and duties	8	46
powers and duties, other	9	48
Bonding		
county high schools		
budget prohibition	399	274
payment of bonds	338	273
proration of proceeds between	377	273
county high school not placed in high school district		
county commissioners to call election and issue bonds	336	273
provisions for	334	272
purposes and petition for bonds	335	272
dates of issue and payments	309	256
debt service fund		
budget preparation	328	267
disposition of monies remaining in	333	271
levy requirement, failure of county commissioners to levy	329	268
payment by county treasurer, termination of interest	330	269
redemption of bonds, investment of monies	331	270
definition of school district for bonding purposes	303	254
delivery of bonds, disposition of monies from sale	325	266
elections		
additional requirements for trustees' resolution	312	258
approval or rejection of election, determination	318	261
county high school not placed in high school district	334	272
notice of bond election by separate purpose	317	260
preparation and form of ballots	316	259
required	311	257
entry of payments and notification to school districts	332	271
form and printing of bonds	323	265
forms of bonds, definition	306	255
forms of bonds to be issued	307	256
laws applicable	302	253
liability of school district	327	267
limitation of term, interest, time for redemption	308	256
limitations on amount of issue	305	255
notice of sale of bonds	320	262
notice of sale of bonds, publication	321	264
petition for bond issue	313	258
trustees' consideration	315	259
validation	314	258
proceedings, county attorney to assist	326	267
purposes for which trustees may issue bonds	304	254
refunding bonds, issued without election	310	257
registration of, by county treasurer	324	265
sale of bonds	322	264
trustees' resolution to issue bonds	319	262
Budgets		
application of budget system	207	180
board of supervisors	209	181
county assessor's statement of cities and towns valuations	217	184
county superintendent estimates	218	185
county treasurer's statement of cash balances and bond information	216	183
emergency, authorization for	230	190
definition	229	190
filing and delivery of	234	194

HeinOnline -- 1971 vol. II 1975 1971

INDEX

	Sec.	Page
financing and levying property tax for	236	194
limitation, preparation, adoption	233	192
notice of resolution	232	192
resolution for, petition	231	191
state financial aid for	235	194
federal funds, allocation in lieu of property taxation	224	188
final, adoption and expenditure limitations	222	187
adjustment procedures	220	186
completion, filing and delivery	225	188
final meeting	219	185
form of	210	181
general fund, adjustment when exceeding maximum limitation	221	187
general supervision of system	208	181
initial items, estimated budget authority	211	181
joint district, county officials for	226	188
fixing and levying tax	228	189
procedure and communication system	227	189
preliminary		
notice of filing and final budget meeting	215	183
notice of meeting	212	182
preparation and adoption	213	182
preparation where no budget submitted	214	183
tax levies, fixing and levying	223	187
Census		
handicapped children, listing	67	85
report of, compensation and transmittal	66	84
taken by trustees, child eligibility	65	83
Clerk of district, duties	64	82
Community colleges		
annexation of territory, election for	472	333
board of trustees		
meetings, quorum, travel reimbursement, seal	464	329
pecuniary interest, letting contracts	465	329
qualifying and organization	460	327
vacancy of position	463	329
budgeting, financing, ANB, levies, adult education, federal funds	468	330
courses of instruction and tuition	466	330
community college districts, definition	448	322
donations, acceptance of	470	332
elections		
annexation of territory to district	472	333
board of trustees after organization of district	461	327
call for nominations of trustees and notice	455	325
call of election and proposition statement	453	323
conduct of	458	326
determination of approval, disapproval, procedures	459	326
nomination of candidates and provision of sample ballot	456	325
notice of organization election	457	326
tabulation, declaration and certification, elected trustees	462	328
trustees, districts, terms	454	324
employment of personnel, retirement system	467	330
lease or sale of district property	471	333
name and corporate powers	449	322
petition to propose organization	452	323
requirements for organization	451	323
sources of financing and types of capital expenditures	469	332
supervision by board of education	450	322
tuition	466	330
Contracts		
letting bids	482	339

HeinOnline -- 1971 vol. II 1976 1971

INDEX

	Sec.	Page
letting bids, pecuniary interest	244	200
County superintendent		
additional positions	24	60
annual report and receipt for	27	61
assistance to trustees	26	61
census review, transmittal, receipt	28	62
controversy appeals and hearings	29	63
defined	19	56
election and qualification	20	56
office costs and staff	22	57
powers and duties	23	58
powers and duties, other	25	60
term, oath and vacancy	21	57
County attorney, duty of	489	340
Delivery of school officer of items to successor	55	76
Districts		
boundaries, confirmation of existing	161	147
boundary changes		
bonded indebtedness against original territory	188	168
property tax valuation after	189	168
time limitation for	164	149
trustees, effect on	190	169
cash disposition		
on territory transfer	194	170
when district ceases to exist	191	169
when districts consolidated	192	170
when new elementary district created	193	170
classification	162	147
county high school unification		
approval, transaction after	198	172
election for	197	171
elementary and high school defined	160	146
elementary, abandonment	171	155
annexation	167	151
boundary change of licensed child care institution district	174	158
conditions for annexation	166	151
consolidation	165	149
consolidation or annexation election with assumption of bonded indebtedness	168	153
consolidation or annexation election without assumption of bonded indebtedness	169	154
consolidation to organize joint district	170	155
limitations for creation of new district	176	160
procedure for creation of new district	177	160
transfer of territory from one to another	175	158
high school		
abandonment	183	166
approval of boundaries by superintendent of public instruction	187	168
approval of boundary on division of elementary district	181	164
boundary commission and changes	180	163
consolidation	186	167
counter proposed boundaries, election	182	165
establishment of in county	179	163
method of changing boundaries	178	162
joint elementary		
abandonment	172	156
dissolution	173	156
joint high school		
limitations for organization of	184	166
procedure for organization	185	166

HeinOnline -- 1971 vol. II 1977 1971

INDEX

	Sec.	Page
liability of	69	86
permanent record of boundaries	163	149
property disposition on boundary change	195	170
records, surrender when district ceases to exist	196	171
Disturbance of school, penalty	490	340
Elections		
absentee voting	152	142
approval of school site	475	334
building reserve fund	344	277
by ballot	139	137
canvass of votes, issuance of election certificates	159	145
clerk of election, judges, appointment for absent judge	155	143
closure of registration	149	141
conditions under which held, resolution of trustees	142	137
conduct of	157	143
county high school unification with elementary district	197	171
delivery of and charge for list of registered electors	151	142
delivery of ballots, pollbook, tally sheet and certifying results	158	144
disposal of sites and buildings, when election required	476	335
district consolidation or annexation with assumption of bonded indebtedness	168	153
district consolidation or annexation without assumption of bonded indebtedness	169	154
elector challenges	148	140
expenses of election	156	143
general fund, additional levy for	273	225
general supervision and supplies	154	142
high school boundaries, counter proposed, election for	182	165
joint elementary districts, for dissolution of	173	156
joint interstate school agreements	363	288
lists of registered electors for polling places, taxpayer stamp	150	141
notice of	145	139
poll hours	141	137
poll hours, places, judges, ballot format, established by trustees	144	138
precedence of school elections provisions	138	137
qualifications of electors	146	139
qualifications of electors, taxpayer status	147	140
school election defined	137	136
time for, regular and special	140	137
time limitation for conduct of	143	138
voting machines and electronic voting systems	153	142
See Bonding, University, Community Colleges		
Elementary opening or reopening	200	175
Farm mortgage lands, title vested in state and transfers validated	357	286
Federal monies for state, acceptance and expenditure of	358	286
Financial administration		
annual report of county superintendent	240	196
application of law and supervision	238	196
appropriations, entering on accounting records of county treasurer	245	201
county officials for, joint districts	239	196
county treasurer, duties	241	197
district accounting records, examination	243	200
funds defined	237	195
lapse of budgeted appropriations, unpaid claims	249	203
non-budgeted fund expenditure limitation, cash retention	250	203
pecuniary interest, letting contracts	244	200
transfer among appropriation items of a fund	248	203
trustees, duties	242	198
warrants, recording and payment by county treasurer	247	202
warrants of employees, procedure for issuance	246	201

HeinOnline -- 1971 vol. II 1978 1971

INDEX

	Sec.	Page
Fines and penalties proceeds, use, reporting	486	339
Fire danger and prevention		
drill	492	341
instruction	493	341
Foundation program		
average number belonging		
circumstances for increase	253	205
definition and calculation	252	204
unusual enrollment increase, procedures	254	206
county equalization		
apportionment of monies	264	217
basic county tax and other revenues for	262	215
basic special levy and other revenues for	263	216
formulas for apportionment	265	218
definition, proportion of schedule amount, isolated, non-isolated schools	256	212
general fund budget without a valid levy schedule	255	209
interest and income monies		
apportionment by county superintendent	259	214
budget estimations	261	215
definition	257	213
distribution by superintendent of public instruction	258	213
distribution in county	260	214
joint districts, proration and calculation for	277	228
permissive levy	272	224
purpose and definitions	251	204
state equalization aid		
additional county levy for state deficiency	271	223
definition of, revenues for	266	220
distribution, duties of board of education	267	220
distribution, duties of superintendent of public instruction	268	221
estimation of, levels, for budget purposes	270	223
formula for apportionment	269	222
purpose, duties of board of education for distribution	267	220
Funds		
adult education	386	295
adult education, levy budget	346	279
building	352	283
building reserve		
budgeting, tax levy and use of	345	279
election for	344	277
endowment, acceptance of gifts, administration	364	289
federal programs, miscellaneous	351	283
general fund		
additional levy for, election	273	225
cash reserve	274	226
net levy requirement, computation	276	227
housing and dormitory	353	285
interlocal cooperative agreement	355	285
non-operating fund		
budgeting and net levy requirement for	349	282
purpose, establishment	348	281
post-secondary vocation-technical center fund	347	280
public school	356	285
retirement funds, employer's contribution provisions	343	275
school food services	350	283
traffic education	354	285
Gender, defined	485	339
High school, opening or reopening	201	176
Indenture, school attendance	1	45

HeinOnline -- 1971 vol. II 1979 1971

INDEX

	Sec.	Page
Indian children, compulsory attendance, tribal agreements	122	127
Insurance, liability, purchase by trustees	68	85
Interlocal cooperative agreements		
district as cooperating agency	362	288
district as prime agency	360	287
financial administration	359	287
prime and cooperating agencies	360	287
Isolation, room and board, supervised study programs, reimbursement for	296	243
Isolation, school	206	179
Joint interstate school agreements, election for	363	288
Junior high school		
budgeting and cost sharing	204	179
opening	202	177
opening, when high school district operates a county high school	203	178
Kindergarten and preschool programs	378	294
Land and property		
land acquired by conditional deed, etc.	474	334
leasing of buildings, authority for	481	338
leasing of property, disposition of rentals	483	339
letting contracts, provisions	482	339
plans and specifications, approval before payment	480	338
regulations of board of health	479	338
school building plans and specifications, review and approval	478	337
school sites, selection, approval election, lease of state lands	475	334
trustees' authority and duty to insure	484	339
trustees' authority to dispose of sites and buildings, when election required	476	335
trustees' power over property	473	334
trustees' sale of property after resolution and hearing, appeal procedure	477	336
Liability of district	69	86
Liability of trustees	70	86
Library		
book selection for	390	296
educational media, established	382	295
reporting information	391	296
required	388	296
sectarian publications prohibited	392	296
trustees' policies for	389	296
Oath of office, provision for	488	340
Officers, not to act as agents	487	340
Penalties for violations	491	341
Pupil instruction		
accreditation, standards	372	292
enforced	373	293
commemorative exercises, certain days	371	292
conservation education	380	294
correspondence study, supervised	381	294
curriculum, maintenance, publishing	376	293
defined	365	290
elementary schools	374	293
high schools, junior and senior	375	293
kindergarten and preschool programs	378	294
library, educational media, state superintendent	382	295
music, private instruction	379	294
prayer permitted	392	296
pupil-instruction-related day	369	291
Saturday and Sunday school prohibited	368	291
school day	367	291

HeinOnline -- 1971 vol. II 1980 1971

INDEX

	Sec.	Page
school fiscal year, days of instruction	366	290
school holidays	370	291
superintendent of public instruction, assistance from	377	293
Pupils		
admittance of child to school	115	124
attendance		
compulsory, and excuses	117	125
compulsory, Indian children	122	127
incapacitated and indigent children	121	127
attendance officers		
employment	118	125
powers and duties	119	126
defined	114	124
duties and sanctions	123	128
elementary tuition outside of district		
discretionary approval	127	131
distances, notification and appeal	128	131
mandatory approval	126	126
payment by parents	133	135
enrollment, compulsory, and excuses	116	124
extracurricular fund for pupil functions	136	136
fees, breakage and supplies	135	136
high school tuition, Montana children's center	132	135
high school tuition outside of county		
approval	129	132
payment by parents	134	135
reporting, budgeting and payment	130	133
reciprocal tuition agreement with adjoining state	131	134
secret organizations prohibited	125	129
suspension and expulsion	124	129
truancy, penalties	120	126
Safety patrols, provision for	494	342
School closure	205	179
School food service		
allocation of federal funds for federally connected indigent pupils	447	321
commodities, acceptance, distribution	445	320
definition	442	318
federal monies, acceptance, expenditure, administration	443	319
records, reports, reviews, audits	444	320
trustees, duties of	446	320
Schools defined	199	173
Special education		
conduct, compliance with board of education policies	420	309
cooperation of state agencies	422	310
definitions	419	308
determination of need, approval of classes	429	313
duties of state superintendent	421	309
establishment of class or program, discretionary	424	311
establishment, mandatory	423	311
exclusion of children	430	313
financial assistance for	431	314
financial assistance, under six-year olds	434	315
petition of parents for establishment	425	311
transportation, eligibility for	432	314
transportation, reimbursement	433	315
tuition, attendance at state institution	428	313
tuition in other district in lieu of class or program	426	312
tuition out-of-state in lieu of class or program	427	312
State impact aid, eligibility for and payment	275	226

HeinOnline -- 1971 vol. II 1981 1971

INDEX

	Sec.	Page
Superintendent of public instruction		
census and interest and income distribution	17	55
controversy appeals to	18	56
defined	10	48
election and qualification	11	48
powers and duties, administrative	15	50
powers and duties, general	16	52
staff, discretionary	14	50
staff, required	13	49
term, oath and vacancy	12	49
Teacher certification		
board of education policies	72	86
certificates now outstanding	77	90
classification of certificates	76	88
emergency authorization of employment	81	92
fees for certifications	79	91
issuance of certificates	73	87
noncitizen	75	88
qualification, oath	74	87
suspension, revocation and denial appeals	80	91
terms of certificates	78	90
uniform system to be established	71	86
Teachers, principals and district superintendents		
abuse of teachers	91	98
appointment and dismissal of principal or district superintendent	93	99
attendance at state association	92	98
certification registration	87	96
defined	82	93
dismissal of teacher under contract	88	96
duties of district superintendent and principal	94	100
duties of principal where no district superintendent	95	101
duties of teacher	89	96
employment of teachers by contract	83	93
power of teacher over pupils and undue punishment	90	97
teacher's certificate, registration of	87	96
tenure of teachers	84	94
tenure teacher re-election, notification of	86	95
tenure termination	85	95
Teachers' retirement		
benefits, allowances	103	111
creditable service defined	107	120
creditable service, out-of-state employment and before September 1937	108	120
definitions	96	101
discontinuance of former system	113	123
employer's duties	109	121
established	97	103
exemption from taxation, execution and assignment	110	122
financial administration	101	106
financing, method, contributions, funds	102	107
guarantee by state	111	122
membership		
active	104	118
application and creditable service	107	120
inactive	105	119
termination	106	119
protection against fraud	112	122
retirement board		
composition	98	103
per diem and expenses	99	104

HeinOnline -- 1971 vol. II 1982 1971

INDEX

	Sec.	Page
powers and duties	100	104
Textbooks		
definitions	393	297
filing with state superintendent	398	298
free, provisions for	394	297
licensed dealers	396	297
complaint against	399	299
licensing of	397	298
penalty for doing business without license	400	300
penalty for restricting competition	401	300
listing those on file with state superintendent	403	301
penalty for offer or acceptance of emoluments	402	300
selection and adoption	395	297
Traffic education		
account and proceeds earmarked for the account	436	316
annual allocation and distribution of account proceeds	440	318
definitions	434	315
district establishment of program	439	317
district fund	441	318
duties, state superintendent	438	317
transmittal of proceeds from fines, etc.	437	316
Transportation		
bid letting, payments under contracts	290	238
board of education duties	281	231
budgeting for, transmittal of contracts	297	246
contracts for, provisions	289	237
county committee, duties	292	240
county committee membership	291	239
county reimbursement	300	252
definitions	278	229
discretionary provisions and payment for	286	235
individual, schedule of reimbursement, isolation, room and board and supervised study programs	296	243
mileage, determination of	294	241
nonpublic school children, provisions for	287	236
penalties for violations	283	233
residence, determination of	293	241
revenues and net tax levy requirements for, computation	298	247
school bus		
definition and identification requirements	279	230
depreciation reserve	301	253
driver qualifications	280	230
drivers, duties, duties of other vehicle drivers	284	233
mileage rate, schedule of reimbursement	295	242
state reimbursement	299	251
superintendent of public instruction duties	282	232
trustees, duty to provide, bus riding time limitation	285	234
trustees, powers to purchase, contract, operate two-way radio, insure buses	288	236
Trustees		
additional trustee positions		
redetermination	34	66
request and determination	32	65
annual election, when held	41	69
candidate qualification and nomination	42	69
conduct of election and ballot	44	70
defined	30	64
election and term of office	35	67
high school district operating county high school		
appointment of trustees	50	73

HeinOnline -- 1971 vol. II 1983 1971

	Sec.	Page
determination of terms and filling vacancies	54	76
election to approve election	52	74
membership	49	73
membership, nominations	53	75
joint boards		
organization and voting membership	57	77
powers	58	78
travel reimbursement, secretaries	60	79
meetings and quorum	59	79
nomination caucus in first class elementary district and election waiver	43	70
number elected at each election	36	67
number of trustee positions	31	64
organization and officers	56	77
personal liability	70	86
powers and duties		
general, and record of acts	61	80
other	63	82
specific	62	80
qualification and oath	45	71
removal	48	73
term of vacated position after election	40	69
terms after change of district classification	39	69
terms after creation or consolidation of elementary districts	37	68
terms after establishment of additional trustee positions	38	68
trustee nominating districts, establishment and purpose	33	66
vacancy of trustee position	46	72
vacancy and filling of appointed position	51	74
vacancy, filling, appointee qualification and term	47	72
See Land and Property		
Tuition		
budgeting, levy requirement, paying elementary	342	275
end of term report and notification of resident elementary district	341	274
rates, outside of district	340	274
Vocational education		
acceptance of Acts of Congress	408	303
definitions	404	301
district authorization to establish	407	303
duties of board of education	405	302
duties of state superintendent as executive officer	406	303
post-secondary vocational-technical centers		
admission of pupils, priority to Montana residents	415	307
designation	410	304
exception to school calendar	414	307
lease or purchase of state property for	418	308
local administration	413	306
program and budget	411	305
pupil fees and disposition	417	307
tuition, Montana residents, nonresidents	416	307
state treasurer, custodian of monies	409	304

SCHOOLS

Bids, letting contracts, pecuniary interest, employment of trustees unlawful	Ch. 42	437
Board of education, membership, university system student body president	Ch. 352	1344
Bonding		
approval or rejection of election, determination	11	550
county high school not placed in high school district, purposes and petition	12	551

HeinOnline -- 1971 vol. II 1984 1971

INDEX

	Sec.	Page
elections		
notice of bond election by separate purpose	40	973
preparation and form of ballot	39	973
limitation of term, interest, time for redemption	7	943
notice of sale of bonds	41	974
petition for bond issue	8	548
trustees' consideration	10	550
validation	9	549
proceedings, county attorney to assist, employment of other attorneys	1	1073
sale of bonds	10	944
Community colleges		
board of trustees, quorum, meetings, travel, notice of special meetings	Ch. 163	713
budgeting and financing procedure	Ch. 401	1435
elections		
annexation of territory to district	Ch. 162	712
determination of approval, disapproval, procedures	Ch. 164	714
see University System		
Compulsory enrollment and excuses, discretion of district judge to excuse	Ch. 389	1408
Confidentiality between student and school personnel	Ch. 61	467
County attorney, duty of, employment of other attorneys	2	1073
Districts, classification, first class elementary	Ch. 353	1345
elementary, consolidation or annexation election with assumption of bonded indebtedness	5	545
high school, establishment of in county	Ch. 44	438
transfer of territory from one to another	6	546
Drug and alcohol education requirements	Ch. 396	1427
Elections		
approval or rejection of bond election, determination	11	550
building reserve funds	13	552
consolidation or annexation with assumption of bonded indebtedness	5	545
county high school not placed in high school district, purpose of bond issue	12	551
elector challenges	3	544
general fund, additional levy for	7	547
lists of registered elections for polling places	4	544
petition for bond issue	8	548
trustees' consideration	10	550
validation	9	549
qualifications of elector	2	544
taxpayer qualification repealed	Ch. 83	543
transfer of territory from one elementary district to another	6	546
Financial administration, warrants of employees, procedure for issuance, deposit in banks	Ch. 341	1331
Foundation program, general fund budget without a voted levy, schedules	Ch. 404	1463
Funds		
building reserve, election for	13	552
endowments, acceptance of gifts, investment of	Ch. 342	1332
Professional Negotiations Act for Teachers	Ch. 424	1580
Public, elections, qualifications of electors	Ch. 118	619
Pupils		
extracurricular fund for pupil functions	Ch. 349	1341
high school tuition, Montana children's center	Ch. 109	591
Registry of warrants, interest	25	962
Special education		
establishment of class or program, discretionary	1, 2	623, 624
establishment of class, mandatory	1	624
financial assistance, under six-year-olds	2	624

HeinOnline -- 1971 vol. II 1985 1971

	Sec.	Page
petition of parents for establishment	3	625
tuition, attendance at state institution, attendance at local school	Ch. 282	1207
Teachers		
attendance at state association sessions	Ch. 200	807
professional negotiations Act for	Ch. 424	1580
Teachers, principals and district superintendents		
abuse of teachers	Ch. 100	568
dismissal of teacher under contract, appeals	Ch. 324	1308
tenure of teachers	Ch. 49	444
Teachers retirement system		
benefits, allowances	2	1552
benefits, allowances	2	456
creditable service, out-of-state employment and before September 1937, interest	3	463
financing method, contributions, funds, interest on redeposit	1	452
financing method, contributions, funds, employer's contribution	1	1548
Television, educational coordination by state superintendent	Ch. 372	1384
Transportation		
buses, requirements, overtaking and passing	Ch. 45	439
trustees, powers to purchase, contract, operate two-way radios, insurance on buses	Ch. 198	805
Voluntary consolidation and annexation incentive plan for districts	Ch. 125	627
WICHE, placement of students in states outside of compact	Ch. 128	632
See Schools, Codification of Laws, above; University, Codification; and University System, below		
SECRETARY OF STATE		
Fees charged and collected by	Ch. 185	762
SILICOSIS		
disability defined, persons in state institutions, payment to beneficiary	Ch. 360	1364
eligibility requirement for aid, amount of payments	Ch. 105	576
SKI LIFTS		
Inspection, regulation, fees	Ch. 436	1681
SNOWMOBILES		
Registration, regulation, unlawful operation	Ch. 434	1670
Taxation, decal, time of assessment	Ch. 435	1678
SOCIAL AND REHABILITATION SERVICES, DEPARTMENT OF		
Executive reorganization	82A-1901-82A-1908	1157
SOIL AND WATER CONSERVATION DISTRICTS		
See Conservation Districts; Water		
STATE BOARD OF EUGENICS		
Per diem and expenses of members	Ch. 74	524
STATE BOARD OF LAND COMMISSIONERS		
Fees, setting by commissioner, approval by board	Ch. 22	390
Investment of state moneys	Ch. 188	773
Leases, cancellation by commissioner	Ch. 27	403
Recepits, issuance, when	Ch. 26	402
STATE EXAMINER		
Duties, fees for examinations, special examinations	Ch. 256	1053
duties of	Ch. 388	1406
STATE FINANCE		
Bond issue for state highway building and complex	Ch. 356	1353
Fiscal control measures and accounting procedures	Ch. 268	1079
Investment of money according to unified plan, investments authorized	Ch. 269	1082

HeinOnline -- 1971 vol. II 1986 1971

INDEX

	Sec.	Page
Investment of moneys by state board of land commissioners	Ch. 188	773
Investment of permanent funds, in what allowed	Ch. 1	1815
Investment of surplus treasury cash	Ch. 205	822
Legislative auditor, information from state agencies, larceny or embezzlement	Ch. 270	1086
Long-range building program		
bonds, amounts	3	884
bonds for, authorized	1	879
moneys collected, disposition	5	886
sinking fund account	2	881
tax for, cigarettes	4	884
State expenditures, modified accrual basis of accounting	Ch. 267	1077
STATE GOVERNMENT		
Division of communications established in department of administration	Ch. 230	928
Emergency and disaster fund	Ch. 409	1478
Insurance plan for state buildings and their contents	Ch. 86	555
Montana Administrative Procedure Act	Ch. 2	1759
State motor pool, operation by highway department	Ch. 320	1293
Support of, 1971-1972 tax levy	Ch. 170	735
See Executive Reorganization	Ch. 272	1090
STATE LANDS		
Coal mining leases, terms, exchange	Ch. 291	1219
Investment of permanent funds, in what allowed	Ch. 1	1815
Investments, conversion to amortization bonds, interest	31	965
Who may lease, age requirement to 19	18	1001
Who may purchase, age requirement to 19	19	1002
See State Board of Land Commissioners		
STATE LANDS, DEPARTMENT OF		
Executive Reorganization	82A-1101-82A-1104	1137
STATE MILITIA		
Officers commissioned by governor, age	16	1576
STATE OFFICERS, BOARDS AND DEPARTMENTS		
Annual reports of state agencies	Ch. 134	647
Department of administration, divisions added, supervision of facilities	Ch. 313	1271
Expenses of persons in state service, lieutenant governor	Ch. 295	1223
Fiscal control measures and accounting procedures	Ch. 268	1079
Interdepartmental advisory council, membership	Ch. 85	555
Letting contracts for supplies, time period of contracts	Ch. 301	1239
Montana Administrative Procedure Act	Ch. 2	1759
Public contractors, deposit of obligations for withdrawal of funds	Ch. 101	568
Sale of state property, surplus highway equipment	Ch. 11	353
State examiner, duties of	Ch. 388	1406
duties, fees for examinations, special examinations	Ch. 256	1053
State expenditures, modified accrual basis of accounting	Ch. 267	1077
State fire marshal's office, tax for maintenance	Ch. 110	592
State treasurer, fiscal duties, expenditure of state moneys	Ch. 152	685
See Executive Reorganization	Ch. 272	1090
STATUTES OF LIMITATION		
Professional negligence actions, time for commencing	Ch. 328	1308
Time limitation for bringing action for damages arising out of design, construction, etc.	Ch. 60	466
SUCCESSION		
Succession and distribution of estates	Ch. 217	858

HeinOnline -- 1971 vol. II 1987 1971

T

	Sec.	Page
TAXATION		
Beer, barrelage tax made permanent	Ch. 421	1545
Cigarettes, tobacco	4	884
Cities and towns, all-purpose levies, rates, allocation, certification	Ch. 375	1387
Classification of property for taxation purposes		
cooperatives, in certain cases in Class 2	Ch. 354	1346
dwellings of 100% disabled veterans	Ch. 317	1286
freeport merchandise	Ch. 35	421
trailers, mobile homes and qualifications under income limitations	Ch. 312	1267
Corporation		
deductions allowed in computing income, net operating loss	Ch. 358	1360
deductions allowed, interest income from obligations of state	Ch. 235	977
income tax, subject to, when	Ch. 82	541
license tax, amount, organizations exempt	Ch. 7	1841
license tax, amount, organizations exempt, effective date	Ch. 5	1785
license tax, nonresident, alternative tax, multistate tax compact	Ch. 16	364
license tax, temporary, made permanent	Ch. 333	1317
Electrical energy producers' license tax, rate made permanent	Ch. 391	1411
Estate, nonresident, apportionment formula, tax status	Ch. 28	406
Fertilizer assessment for educational and experimental programs	Ch. 397	1428
Gasoline		
amount, aviation and other	2	819
amount, 7% per gallon	Ch. 202	810
aviation, unlawful use of	8	822
aviation, tax exemption certificates, repealed	3	819
distributors and aviation dealers, invoices	6	820
distributors, records to be kept	5	820
distributors' statements, payment of tax	4	819
definitions, aviation dealer	1	817
refund, aviation gasoline correction	Ch. 13	359
refund of license tax, procedure	7	820
refund procedure	Ch. 400	1432
Highway funds, disposition, allocation to counties, cities, towns, expenditure	Ch. 384	1396
Income		
adjusted gross, exemption of certain dividends removed	Ch. 345	1336
adjusted gross, what included	Ch. 236	979
nonresident, alternative tax, multistate tax compact	Ch. 15	363
standard deduction, federal income tax excluded	Ch. 357	1359
Inheritance		
monthly report and remittance to state board by county treasurers	Ch. 36	426
order determining tax, to whom mailed	Ch. 161	711
payment to board of equalization or county treasurers, receipts	Ch. 34	420
Insurance, tax on net premiums made permanent	Ch. 237	981
Levy for recreational activities of the elderly	Ch. 380	1393
Metalliferous mines license tax, made permanent	Ch. 392	1412
Motor carriers, gross operating revenue	Ch. 383	1395
National and state banks, like manner	Ch. 25	401
Natural gas distributors' license tax, rate	Ch. 325	1305
Public contractors' license, deposit in general fund	2	1077
Public utilities, microwave electronic equipment, apportionment among counties	Ch. 211	832
Railway freight car leases, annual statement, extension of time for filing	Ch. 339	1328
Referendum, sales tax and increased income tax surtax	Ch. 9	1850
Snowmobiles, tax-paid decal, time of assessment	Ch. 435	1678

HeinOnline -- 1971 vol. II 1988 1971

	Sec.	Page
Special fuel tax		
correction of R.C.M. references	Ch. 12	354
dealer's, user's licenses, vehicle permits	Ch. 277	1184
Store license		
applications, fees, license renewal	Ch. 160	709
deposit in general fund	1	1077
Strip coal mines license tax, payment	Ch. 355	1351
Telephone company license tax, rate	Ch. 326	1306
TEACHERS RETIREMENT SYSTEM		
See Schools, Codification; and Schools		
TELEVISION		
Educational, coordination by state superintendent	Ch. 372	1384
TERRITORIAL INTEGRITY ACT OF 1971	Ch. 7	345

U

UNCLAIMED PROPERTY		
Disposition of, transferred to board of equalization from state treasurer	Ch. 216	850
UNDERGROUND CONVERSION OF UTILITIES LAW	Ch. 429	1596
UNEMPLOYMENT COMPENSATION		
Account, payments to	Ch. 88	557
Benefit eligibility conditions, conformity with P.L. 91-373	Ch. 390	1409
Benefits, amounts	Ch. 169	733
Contributions, rate, non-profit organizations, conformity with P.L. 91-373	Ch. 415	1524
Disqualification for benefits, exceptions, conformity with P.L. 91-373	Ch. 117	612
Election for coverage of employees in hospitals and institutions of higher education	Ch. 103	570
Eligibility, after settlement of workmen's compensation and return to labor market	Ch. 38	428
Employer, employment defined, conformity with P.L. 91-373	Ch. 411	1480
Extended benefits, "on" and "off" indicators	Ch. 104	571
Reciprocal benefit arrangements, employment in two or more states	Ch. 91	560
UNIFORM COMMERCIAL CODE		
Secured transactions, fees charged by secretary of state	Ch. 185	762
UNIFORM GIFTS TO MINORS ACT		
Adult and minor defined, age 18	11	1567
Custodian's duties and powers, minor reaching 18	12	1569
Successor custodian, before minor reaches 18	13	1571
UNIVERSITY SYSTEM, AN ACT FOR THE CODIFICATION AND REVISION OF THE LAWS PERTAINING TO HIGHER EDUCATION	Ch. 2	6
(Note: Amendments to this Act made by the Forty-second Legislative Assembly appear below under University System)		
Co-educational	1	7
Conservation education authorized	59	38
Definitions	2	7
Degrees, approval by regents of awarding	31	20
Donations, to units in their legal names	51	33

HeinOnline -- 1971 vol. II 1989 1971

INDEX

	Sec.	Page
Eastern Montana College		
acceptance of lands for	27	16
donations to	25	16
purpose	23	16
Endowed professorships	60	38
Gifts and grants to units, acceptance	29	17
Local executive boards		
powers	40	27
terms, compensation	39	26
Military instruction	52	33
Montana College of Mineral Science and Technology		
assays and analyses, fees for	49	32
bureau of mines and geology, director, assistants	9	11
functions, purpose	8	9
purpose	7	9
Montana State University		
acceptance of Acts of Congress	12	11
agricultural experiment station		
funds from Act of Congress and sale of products	44	30
purpose	11	11
agricultural extension work, funds from Act of Congress	45	30
cash appropriations, Acts of Congress	46	30
eastern Montana branch experiment station	21	15
experimental farms, funds from Acts of Congress	47	31
experimental substation, Fergus county	19	15
grain inspection laboratory	16	13
grain inspection laboratory, director	17	14
grain inspection laboratory, fees, etc.	18	14
purpose	10	11
northwestern Montana branch experiment station	20	15
western Montana branch experiment station	22	15
wool laboratory, advisory committee	15	12
wool laboratory, funds and fees	48	32
wool laboratory, purpose	13	12
wool laboratory, supervision	14	12
Name, use exclusive	4	8
Northern Montana College		
purpose	28	17
Oath required of faculty	61	38
Presidents, powers	41	28
Public lands, acceptance for Eastern and Western Montana Colleges	27	16
Regents		
borrowing by	33	22
control of expenditures	50	33
revenue-producing facilities, powers relating to	32	20
state board of education, ex officio, powers and duties	30	18
Research programs, powers of units	57	36
Revenue-producing facilities		
considered as one, income confined to each unit	35	26
powers of regents	32	20
previous contracts unimpaired	37	26
prior obligations not affected	38	26
restriction on use of state funds	36	26
state not obligated	34	25
Students		
definitions	53	33
domicile, evidence as to, change of status	55	35
domicile, presumption as to	54	34
qualification	52	33
Indians, nonpayment of fees	56	36

HeinOnline -- 1971 vol. II 1990 1971

	Sec.	Page
Tuition, charges, waiver of nonresident fees	42	29
Units constituting	3	7
University of Montana		
departments and courses	6	8
purposes	5	8
support of	43	29
Western Montana College		
acceptance of lands for	27	16
donations to	26	16
	Sec.	Page
purpose	24	16
UNIVERSITY SYSTEM		
Community colleges		
baccalaureate degrees prohibited	1	1472
courses of instruction, tuition, regents	8	1473
elections		
call for nominations of trustees and notice, regents	5	1472
call of election and proposition statement, regents	3	1471
determination of approval, disapproval, procedures, regents	2	1474
nomination of candidates and provision of sample ballot, regents	6	1473
notice of organization election	7	1473
trustees, districts, terms, regents	4	1471
petition to propose organization, to regents	2	1470
supervision by board of regents	1	1470
Drug and alcohol courses for teachers required	Ch. 396	1427
Executive reorganization	82A-501-82A-510	1117
Indians, nonpayment of fees at units	Ch. 350	1343
Local executive boards, powers	Ch. 351	1343
Montana law enforcement academy, site, staff	Ch. 331	1314
Montana State University		
acceptance of Acts of Congress, repealed	10	411
agricultural experiment station		
agricultural research centers, designated	4	410
deposit of income	9	411
donations, acceptance	7	411
duties of director	3	409
eastern Montana branch experiment station, repealed	10	411
establishment, purpose	1	408
experimental substation, Fergus county, repealed	10	411
grain and seed laboratory	6	410
grain inspection laboratory, provisions repealed	10	411
grants, application for	8	411
northwestern Montana branch station, repealed	10	411
western Montana branch experiment station, repealed	10	411
wool laboratory, designation, purpose	5	410
wool laboratory provisions, repealed	10	411
Northern Montana College		
purposes	2	409
Parking and traffic on university grounds	Ch. 398	1430
Public lands, acceptance for Eastern and Western Montana colleges	Ch. 289	1214
Regents, membership, university system student body president	Ch. 352	1344
Security departments, appointment by regents	Ch. 405	1469
Student building fees, established	Ch. 223	888
Students		
definitions, age requirement to 19	17	1000
definitions, emancipated minor, resident student	1	1423
domicile, evidence as to, 12 months residence	3	1425
domicile, presumptions as to, wife and dependents of full-time		

HeinOnline -- 1971 vol. II 1991 1971

	Sec.	Page
employee of state	2	1424
Tuition		
waiver of nonresident fees	Ch. 286	1210
waiver of nonresident fees	Ch. 432	1652
waiver of nonresident fees, college of mineral science and technology	Ch. 231	931

V

VALIDATING ACTS

Bond validating Act of 1971	Ch. 208	829
Court proceedings affecting real property prior to January 1, 1971	Ch. 94	564
Deeds and conveyances defective in execution or acknowledgment	Ch. 95	565
Deeds and conveyances made by trustees, executors, administrators and guardians	Ch. 98	566
Expenditures, levies and elections for the purposes of the Municipal Airport Act	Ch. 278	1193
Instruments affecting real property erroneously executed or acknowledged	Ch. 99	567
Joint tenancy by direct conveyance	Ch. 9	352
Judicial sales of real property	Ch. 97	566
Sales by counties	Ch. 96	565

VENDING MACHINES

Device for breaking into prohibited	Ch. 172	746
Exempt from store license provisions	Ch. 160	709

VENUE

Filing claim for direct payment of money in improper venue, penalty	Ch. 176	749

VETERANS

Concurrent jurisdiction of Fort Harrison with U.S.	Ch. 157	693
Free automobile license plates for disabled	Ch. 215	849
Korean and Vietnam, employment by veterans welfare commission	Ch. 92	562
Taxation classification of dwellings of disabled	Ch. 317	1286

VETERINARIANS

Age requirement removed	7	729

VOCATIONAL REHABILITATION

Terms clarified and defined	Ch 794	192

W

WATERS AND IRRIGATION

Conservancy districts		
action by board upon receipt of request to form, time for preparing preliminary survey	Ch. 302	1242
feasibility study and report, time for preparing	Ch. 303	1243
issuance of bonds, term and interest	43	976
Drainage districts		
assessments for construction, annual installments, interest	35	969
borrowing money, procedure to issue notes or bonds	36	970
refunding indebtedness of district, interest	42	976
Flood control and water conservation, special or rural improvement district bonds for	Ch. 239	992
Floodways of watercourses, management and regulation	Ch. 393	1413
Irrigation district bonds		
debt-incurring powers, district warrants, interest	32	966
details relating to, interest	33	966

HeinOnline -- 1971 vol. II 1992 1971

	Sec.	Page
tax or assessment to pay bonds and interest	34	967
Irrigation districts, payment of reserve funds to, use of	Ch. 137	653
Water resources board		
dams or dikes, safety inspection of	Ch. 370	1381
ground water appropriations, filing of forms with	Ch. 307	1249
WATER POLLUTION CONTROLL ACT	Ch. 21	374
WEAPONS		
Concealed, exceptions to carrying, national park service rangers	Ch. 54	448
WEIGHTS AND MEASURES		
Apples, orchard-run grade	Ch. 127	630
WESTERN INTERSTATE COMMISSION FOR HIGHER EDUCATION		
Authority to place students in states outside of compact	Ch. 128	632
WHEAT		
Assessment, payment of	Ch. 201	808
WHITE CANE ACT	Ch. 181	757
WORKMEN'S COMPENSATION		
Compensation for injury producing temporary total disability	Ch. 174	747
Compensation in case of specified injuries, healing period	Ch. 140	662
Computation of payroll, vacation salaries and wages	Ch. 146	668
Employees bound by act, rules of board	Ch. 145	667
Employee coverage, on-the-job trainees, partnerships, sole proprietors	Ch. 308	1253
Expenses payable to workman receiving training	Ch. 363	1366
Freedom of choice of practitioner, clinical psychologist	Ch. 402	1436
Insurance policies, agreement contained in, deposit of bond, amount	Ch. 141	665
Insurance policies subject to act, assessment of insurers	Ch. 142	666
Loss of hearing from exposure to industrial noise	Ch. 366	1371
Medical and hospital services, hospitals schedule of fees and charges	Ch. 359	1363
Occupational disease, defined	Ch. 41	437
Occupational diseases, proximate causation	Ch. 40	436
Pneumoconiosis, amendments of Occupational Disease Act to conform with P.L. 91-173	Ch. 190	778
Public corporations, election of plan by private contractor as employer for	Ch. 410	1479
Solvency of employer, proof, levy of assessment	Ch. 143	666
Unemployment compensation benefits, where eligible after returning to labor market	Ch. 38	428
Week defined	Ch. 175	749

Y

YOUTH GUIDANCE HOMES		
Authorized	Ch. 427	1592

Z

ZONING		
Subdivision regulations, building restrictions, cities and towns, counties	Ch. 273	1162

HeinOnline -- 1971 vol. II 1993 1971

HeinOnline -- 1971 vol. II 1994 1971

INDEX OF APPROPRIATIONS

HeinOnline -- 1971 vol. II 1995 1971

HeinOnline -- 1971 vol. II 1996 1971

INDEX OF APPROPRIATIONS

EXECUTIVE DEPARTMENTS

Page

ABSTRACTORS' BOARD OF EXAMINERS 1902

ADJUTANT GENERAL 1917
Capital project 1797

ADMINISTRATION, DEPARTMENT OF 1910
Capital projects 1793
Land acquisition for Capitol complex 1922

AERONAUTICS COMMISSION 1943
Capital projects 1800

AGING, COMMISSION ON 1911

AGRICULTURE, DEPARTMENT OF 1913
Supplemental 1694

ARCHITECTURAL BOARD OF EXAMINERS 1902

ARTS COUNCIL 1915

ATHLETIC COMMISSION 1902

ATTORNEY GENERAL 1899

AUDITOR, STATE 1900

BARBERS' BOARD OF EXAMINERS 1903

BOARD OF EQUALIZATION 1936

BOARD OF EXAMINERS 1901

CHIROPRACTIC BOARD OF EXAMINERS 1903

CIVIL DEFENSE 1918

COSMETOLOGY BOARD OF EXAMINERS 1903

COUNTY ATTORNEYS 1901
Supplemental 1694

DENTAL BOARD OF EXAMINERS 1903

ELECTRICAL BOARD 1903

EMPLOYMENT SECURITY COMMISSION 1920
Capital projects 1892

ENTOMOLOGIST, STATE 1914

EUGENICS, BOARD OF 1894

EXAMINER, STATE 1911

FISH AND GAME DEPARTMENT 1940
Capital projects 1796, 1798

FOOD DISTRIBUTORS' BOARD 1903

FORESTER, STATE 1942
Capitol project 1797

HeinOnline -- 1971 vol. II 1997 1971

INDEX

Page

GOVERNOR 1901

GRASS CONSERVATION COMMISSION 1942

HAIL INSURANCE BOARD 1937

HEALTH, BOARD OF, Water Pollution Control Facilities 1691

HEALTH, DEPARTMENT OF 1938

HEARING AID DISPENSERS' BOARD 1903

HIGHWAY DEPARTMENT 1935
Capital projects 1800
Capital project, building complex 1802

HIGHWAY PATROL 1918
Capital project 1797

HISTORICAL SOCIETY 1915
Capital project 1793

HORSE RACING COMMISSION 1904

INDUSTRIAL ACCIDENT BOARD 1939

LABOR AND INDUSTRY, DEPARTMENT OF 1940

LANDS AND INVESTMENTS, DEPARTMENT OF 1911
Mining-land expense 1695

LIBRARY COMMISSION 1938

LIQUOR CONTROL BOARD 1919

LIVESTOCK COMMISSION 1919
Supplemental 1694

LIVESTOCK SANITARY BOARD 1914

MASSAGE EXAMINERS' BOARD 1904

MEDICAL EXAMINERS' BOARD 1904

MERIT SYSTEM 1937

MILK CONTROL BOARD 1921

MORTICIANS' BOARD 1904

NURSING, BOARD 1904

NURSING HOME ADMINISTRATORS' BOARD OF EXAMINERS 1904

OIL AND GAS CONSERVATION COMMISSION 1938
Capital projects 1797

OPTOMETRY BOARD OF EXAMINERS 1904

OSTEOPATHIC BOARD OF EXAMINERS 1905

PARDONS, BOARD OF 1895

PASSENGER TRAMWAY SAFETY BOARD 1906

PHARMACY, BOARD OF 1905

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT 1912

HeinOnline -- 1971 vol. II 1998 1971

Page

PLUMBING BOARD OF EXAMINERS 1905

PROFESSIONAL ENGINEERS AND LAND SURVEYORS' BOARD 1905

PSYCHOLOGISTS, BOARD OF 1906

PUBLIC ACCOUNTANCY BOARD 1905

PUBLIC EMPLOYEES RETIREMENT SYSTEM 1940

PUBLIC WELFARE DEPARTMENT 1915

RAILROAD COMMISSIONERS, BOARD OF 1905

REAL ESTATE COMMISSION 1905

REGISTRAR OF MOTOR VEHICLES 1894

SANITARIANS' REGISTRATION COUNCIL 1906

SECRETARY OF STATE 1902
Supplemental 1694

SOIL CONSERVATION COMMITTEE 1917

SUPERINTENDENT OF PUBLIC INSTRUCTION 1930

TEACHERS RETIREMENT SYSTEM 1940

TREASURER, STATE 1902

VETERANS WELFARE COMMISSION 1937

VETERINARY MEDICAL EXAMINERS' BOARD 1906

VOCATIONAL REHABILITATION 1916

WATER AND WASTE WATER OPERATORS' BOARD 1906

WATER RESOURCES BOARD 1917

WATER WELL CONTRACTORS' EXAMINING BOARD 1906

JUDICIAL DEPARTMENTS

DISTRICTS JUDGES 1899
Supplemental 1694

LAW LIBRARY 1899

SUPREME COURT 1899

LEGISLATIVE DEPARTMENTS

COMMISSION ON UNIFORM STATE LAWS 1898

ENVIRONMENTAL QUALITY COUNCIL 1898

FORTY-SECOND LEGISLATIVE ASSEMBLY
Operation 1691
Supplemental 1694
First extraordinary session 1803
Second extraordinary session 1881
House of Representatives sound and voting system 1803
Legislative auditor 1898
Legislative council 1898

HeinOnline -- 1971 vol. II 1999 1971

Page
dues to Council of State Governments 1691
study of foundation program 1922
PERS employer's contribution 1802

STATE INSTITUTIONS

BOARD OF EDUCATION, Vo-tech grants 1793

BOULDER RIVER SCHOOL AND HOSPITAL 1885
Capital projects 1795

CENTER FOR THE AGED 1886
Capital projects 1795

CHILDREN'S CENTER 1887
Capital projects 1802

COMMUNITY COLLEGES 1907

COMMUNITY MENTAL HEALTH CENTER AND MENTAL HYGIENE CLINICS 1894

DEAF AND BLIND SCHOOL 1929
Capital project 1793

DEPARTMENT OF INSTITUTIONS 1885

EASTMONT TRAINING CENTER 1887
Capital project 1795

GALEN STATE HOSPITAL 1888
Capital projects 1795

MOUNTAIN VIEW SCHOOL 1889

PINE HILLS SCHOOL 1889
Capital project 1795

STATE PRISON 1891
Capital project 1795

SWAN RIVER YOUTH FOREST CAMP 1892
Capital project 1796

UNIVERSITY SYSTEM
Agricultural Experiment Station 1927
purchase of land 1693
College of Mineral Science and Technology 1927
capital projects 1801
capital project 1794
Cooperative Extension Service 1927
Eastern Montana College 1928
capital project 1793
Executive Secretary 1929
Montana State University 1926
capital project 1798
capital projects 1794
capital projects 1801
Northern Montana College 1928
capital project 1801
capital projects 1794
Regents, State Board of 1928
University of Montana 1926
capital project 1801

HeinOnline -- 1971 vol. II 2000 1971

Page
capital projects 1794
Western Montana College 1928
capital project 1794
capital project 1801

VETERANS' HOME 1893
Capital projects 1796

WARM SPRINGS STATE HOSPITAL 1893
Capital projects 1796

MISCELLANEOUS APPROPRIATIONS

CAPITAL BUILDING, ILLUMINATION 1802

COUNTY PRINTING COMMISSION 1903

ENVIRONMENTAL QUALITY COUNCIL 1692

GOVERNOR'S OLD MANSION RESTORATION 1692

REVISED CODES OF MONTANA 1899

HeinOnline -- 1971 vol. II 2001 1971

HeinOnline -- 1971 vol. II 2002 1971

CODE INDEX

HeinOnline -- 1971 vol. II 2003 1971

HeinOnline -- 1971 vol. II 2004 1971

CODE INDEX

CODES OF 1947

Title-Sec.		Page
1-201	amended	1339
1-804	amended	704
1-901	added	1653
1-902-904	added	1655
1-905	added	1656
1-906, 908	added	1657
1-909	added	1658
1-910, 911	added	1659
1-912	added	1660
1-913	added	1661
1-914, 915	added	1662
1-916	added	1663
1-917, 918	added	1664
1-919, 920, 921	added	1667
1-922	added	1668
1-923-926	added	1669
1-927, 928	added	1670
3-228	amended	1490
3-1902	amended	414
3-2401-2403	repealed	1518
3-2405-2427	repealed	1518
3-2428-2434, 2436-2444, 2447-2472, 2476-2487	repealed	1519
3-2911, 2913	amended	808
4-108	amended	1389
4-114	amended	469
4-121	amended	470
4-153	amended	513
4-161	amended	993
4-235	amended	528
4-317, 324	amended	1546
4-330	amended	993
4-337	amended	994
4-347	amended	1547
4-347.1	added	1547
4-403	amended	1296
4-413, 439	amended	995
4-502	amended	996
4-504, 506	amended	997
5-903-907	repealed	1059
5-908	amended	1054
5-910	amended	1059
8-101	amended	1181
8-103	amended	759
8-104.4	amended	760
8-110	amended	507
8-111	amended	509
8-111.1	amended	510
8-119	amended	506
8-126	amended	505
8-127	amended	1395
8-130	repealed	671
10-307	amended	45
10-524, 525	amended	1074
10-605.1	amended	800
10-611	amended	1377
10-622	amended	1291, 1595
11-602	amended	370
11-709	amended	798, 1334
11-951	amended	998
11-982	amended	945
11-1001	amended	927
11-1024	amended	1395
11-1202	amended	1382
11-1307	amended	945
11-1602	amended	998
11-1814	amended	442, 501
11-1821	amended	1379
11-1829	amended	554
11-2022	amended	532
11-2023	amended	534
11-2024	amended	536
11-2025	amended	537
11-2201	amended	1200
11-2214	amended	1311
11-2214.2	amended	949
11-2217	amended	697
11-2218	amended	945
11-2226	amended	950
11-2226.1	added	827
11-2227	amended	951
11-2231	amended	952
11-2249	amended	954
11-2269	amended	1050
11-2270	amended	1051
11-2271	amended	705, 1051
11-2272	amended	1052
11-2275	amended	698
11-2277	amended	955
11-2304	amended	940
11-2306	amended	698
11-2310	amended	699
11-2315	amended	943
11-2404	amended	700, 940
11-2702	amended	1163
11-3116	amended	718
11-3229	amended	719
11-3248	amended	419
11-3717	amended	955
11-3801	amended	1164
11-3810	amended	1165
11-3811, 3812	amended	1166
11-3815, 3825	amended	1167
11-3830.2	added	1169
11-3842	amended	1170
11-3843, 3844, 3846	amended	1171
11-3847, 3848, 3851	amended	1172
11-3906	amended	706
11-3910	amended	956
11-4101	amended	1401
11-4412, 4416	amended	511
14-143	amended	840
14-145, 148	amended	841
14-149	amended	842
14-150	amended	843
14-502	amended	349
14-521	amended	367
14-530	amended	350
15-22-119	amended	344
15-22-122	amended	762
15-2384	amended	763
16-405	amended	620
16-1031	repealed	653
16-1406	amended	687
16-1620	amended	958
16-1904	amended	1837
16-2002	amended	961
16-2011	amended	942
16-2021	amended	701
16-2022	amended	702
16-2026	amended	703
16-2032	amended	944
16-2046	amended	962
16-2048	repealed	1841
16-2401, 2402	amended	1559
16-2604	amended	962
16-2724	amended	1330
16-2808, 2818	amended	1544
16-2902	amended	860
16-3202	amended	1559
16-3705	amended	502, 539
16-3802	amended	1545
16-4101	amended	1172
16-4307	amended	1431
16-4517	amended	962
16-4702, 4703	amended	1173
16-4705	amended	1174
16-4711	added	1175

HeinOnline -- 1971 vol. II 2005 1971

INDEX

Title-Sec.		Page
16-4801	amended	1215
16-4803	amended	1216
16-4804	amended	1217
16-4805	amended	1218
19-107	amended	418
23-2701	amended	621, 694
23-2702, 2703	amended	695
23-2702, 2703	repealed	621
23-3001	amended	1059
23-3012	amended	696
23-3013	amended	1046
23-3014	amended	1238
23-3016	amended	1400
23-3022	amended	1422
23-3023, 3027	amended	1016
23-3201	amended	1060
23-3202, 3203, 3204	amended	1061
23-3206	amended	1062
23-3302	amended	1334
23-3318	amended	465
23-3321	amended	1049
23-3509	amended	1047
23-3610	amended	1048
23-3706	amended	1023
23-3709	amended	1048
23-3718	amended	1026
23-3720	amended	1025
23-3721	amended	1026
23-3724	added	1024
23-4201	amended	696
24-107	amended	1335
25-102	amended	763
25-227, 228	repealed	1545
25-401, 403, 404	amended	1316
25-409, 410	amended	1317
25-501	amended	1273
25-604	amended	1370
25-605	amended	1075
26-104	amended	1194
26-201	amended	440, 777
26-202.1	amended	633
26-202.2	amended	442
26-215	amended	1255
26-301	amended	750
26-302	amended	1245
26-303.2	repealed	879
26-332	amended	351
26-501	amended	1256
26-901, 902	repealed	879
26-1201	amended	529
26-1502	amended	645
26-1505	amended	646
26-1507	amended	647
27-201-212	repealed	1463
27-403	amended	579
27-406	amended	581
27-407	amended	582
27-408, 409	amended	587
27-410	amended	588
27-411	amended	589
27-427	repealed	590, 1162
27-612	amended	639
27-702	amended	736
27-703	amended	742
27-721	amended	745
28-103	amended	411
28-123	amended	413
28-125	amended	1184
28-401-403	repealed	670
28-408, 410	amended	669
28-412	amended	670
28-603	amended	1326
31-103	amended	1022
31-135	amended	1213, 1560
32-1126	amended	1295
32-1127	amended	1320
32-1143, 1145	repealed	759
32-1208	amended	446
32-1629, 1629.1, 1630, 1631	repealed	1303
32-2142	amended	643
32-2146	amended	558
32-2148	amended	1046
32-2197	amended	439
32-21-149	amended	798
32-2601	amended	1357
32-2605	amended	1208
32-3121, 3123	amended	963
32-3302.1	amended	838
32-3304.1	amended	570
32-3311	repealed	428
32-3317	amended	428
32-3502	amended	964
32-3601	amended	807
32-3707	amended	1017
32-3805	amended	965
32-3922, 3925	amended	1589
32-3926	amended	1590
32-3927	amended	1591
32-3929	amended	1592
32-4701-4704	repealed	1825
32-4705	repealed	1825
	amended	866
32-4706-4711	repealed	1825
32-4712, 4713	amended	867
	repealed	1825
32-4714	amended	868
	repealed	1825
35-115	amended	971
35-128	amended	1203
35-129	amended	1206
40-2821	amended	981
40-3308	amended	1561
40-3327	amended	1562
40-3729	amended	720
40-3738	added	1236
40-3739	added	1237
40-4108	amended	1437
40-4705	amended	1563
40-4745	amended	684
40-4807	amended	1565
40-4917	amended	1234
40-4918	added	1236
40-5321	amended	1565
40-5501-5508	repealed	480
41-601-604	repealed	667
41-801	amended	795
41-804, 808	amended	796
41-810	amended	797
41-1118	repealed	446
41-1120	amended	446
41-1135, 1136	amended	999
41-1401-1416	repealed	1620
43-106.1, 106.2	repealed	1780, 1850
43-107	amended	772
43-310	amended	43
45-501, 502	amended	1476
46-801	amended	671
46-802	amended	675
46-803, 804	amended	677
46-2322	amended	399
46-2331	amended	373
47-124	amended	972
47-202, 204	amended	934
47-205	amended	935
47-211	amended	936
47-214	amended	937
47-215, 216	amended	938
48-118.1	amended	445
48-143	amended	999
50-101	amended	1258
50-102	amended	1259
50-103-107	repealed	1264
50-108	amended	1261
50-109-117	repealed	1264
50-118	amended	1262
50-119	added	1263
50-701	amended	1781
50-702	amended	1782
50-704	amended	1783
50-1001-1017	repealed	897
53-101	amended	843

HeinOnline -- 1971 vol. II 2006 1971

INDEX

Title-Sec.		Page
53-106	amended	914
53-107	amended	753
53-108	amended	654, 845
53-109	amended	655
53-114	amended	846
53-118	amended	917, 1018
53-118.1-118.5	repealed	831
53-120, 122	amended	921
53-146, 147	amended	660
53-420	amended	1394
53-421	amended	449
53-422	amended	450
53-501, 503-508, 510-513	repealed	1295
53-1001-1011	repealed	1678
54-133	amended	926
59-301	amended	1000
59-538	amended	352, 1223
59-701.1	amended	1077
59-701.2	amended	1078
59-901, 902	repealed	1162
59-1001, 1002	amended	622
59-1008	added	563
60-131.1	amended	679
60-131.2, 131.3	amended	680
60-131.6	amended	682
60-131.9	amended	683
61-112.2	amended	753
61-203	amended	1000
64-101	amended	1000
64-207.1	amended	464
64-301	amended	433
64-302	amended	434
64-303	amended	435
66-411	amended	556
66-603	amended	721
66-803	amended	722
66-815	amended	1304
66-905	amended	1211
66-1012	amended	811
66-1013	amended	813
66-1023, 1025	amended	814
66-1027	amended	725
66-1028-1030	amended	816
66-1307	amended	525
66-1318	added	531
66-1501, 1502	amended	1005
66-1504	amended	1007
66-1506	amended	727, 1009
66-1507, 1508	amended	1010
66-1509, 1521	amended	1012
66-1819	amended	728
66-1820	amended	729
66-1929	amended	1566
66-2204	amended	729
66-2326	amended	1367
66-2337	amended	1369
66-2344	amended	1370
66-2502, 2708	amended	731
66-3103	amended	732
67-1602.1	amended	352
67-1801	amended	1567
67-1804	amended	1569
67-1807	amended	1571
67-2211	amended	850
67-2212	amended	851
67-2213, 2214	amended	853
67-2215, 2216, 2217	amended	854
67-2218, 2219	amended	855
67-2220, 2221, 2222	amended	856
67-2223-2226	amended	857
68-801	amended	604
68-901	amended	605
68-902	added	610
68-1307	amended	611
69-1501	amended	897
69-1502	amended	898
69-1503	amended	899
69-1504	amended	900
69-1505, 1507	amended	901
69-1508, 1509	amended	902
69-1510, 1511	amended	906
69-1512	amended	907
69-1513, 1514	amended	908
69-1515	amended	909
69-1516, 1517	amended	910
69-1518	repealed	914
69-1601, 1602	amended	911
69-1603, 1604	amended	912
69-1605	repealed	914
69-1607	amended	913
69-1701	amended	913
69-1702	amended	914
69-1703	repealed	914
69-2701	amended	1573
69-3401	amended	1087
69-3402, 3403	amended	1088
69-3404, 3405	amended	1089
69-3407-3409	amended	1090
69-4118	amended	1325
69-4201-4203, 4205	repealed	1286
69-4509	amended	800
69-4510	amended	802
69-4610	amended	649
69-4801, 4802	amended	375
69-4803	repealed	390
69-4804-4806	amended	377
69-4807-4809	repealed	390
69-4810	amended	381
69-4811-4814	amended	382
69-4815-4819	repealed	390
69-5201	amended	803
69-5401	amended	525
69-5402, 5403	amended	526
69-5404, 5405, 5407, 5408	amended	527
69-5903	amended	1246
69-5908, 5910	amended	1248
69-6002	amended	650
69-6007, 6010	amended	651
69-6402	amended	524
71-211	amended	1066
71-402	amended	1067, 1222
71-501	amended	1385
71-502	amended	1220
71-504	amended	560
71-508	amended	1220, 1386
71-604	amended	1068, 1391
71-610	amended	688
71-1001	amended	1364
71-1003	amended	577, 1365
71-1004, 1008	amended	578
71-1202	amended	1069, 1392
71-1512	amended	1064
71-1516	amended	1065
71-1517	amended	1066
71-1519	amended	1067
71-1525	amended	1575
72-118	amended	924
72-143, 150	amended	626
72-151	amended	627
73-107, 114	amended	861
73-115	amended	862
73-116	amended	863
74-602	amended	1528
74-608	amended	1531
75-101-106	repealed	343
75-107	repealed	39, 343
75-108, 109	repealed	39
75-216-223, 301-314, 401-416, 501-515, 601-611, 701-738, 801-811, 901-907, 1001-1006, 1101-1104	repealed	39
75-1201.1	repealed	39, 343
75-1202-1206, 1301-1308, 1311-1313, 1315-1317, 1319, 1320, 1401-1406, 1501-1510, 1512-1526, 1528-1535,		

HeinOnline -- 1971 vol. II 2007 1971

INDEX

Title-Sec.		Page
1601-1626, 1628-1632, 1632.1, 1633-1647, 1701-1706, 1708-1710, 1712, 1713, 1713.1, 1714-1723, 1723.1, 1724-1730, 1801-1813, 1813.1, 1814-1823, 1825-1834, 1901-1905, 2001-2009, 2011-2013	repealed	343
75-2014	repealed	39, 343
75-2015-2017, 2101-2105, 2201-2215, 2301-2303, 2401-2405, 2405.1, 2406-2411, 2501, 2506, 2511-2516, 2518-2522, 2701-2709, 2709.1, 2709.2, 2710-2716, 2801, 2802, 2901-2910, 3101, 3102, 3104-3125, 3201-3203, 3308-3311, 3401-3414, 3501, 3503-3511, 3610-3624, 3701-3706, 3709-3714, 3716-3720, 3722-3729, 3729.1, 3734-3742, 3801-3806, 3901-3946, 4001-4007, 4101, 4103-4113, 4115-4118	repealed	343
75-4120-4144, 4146-4153, 4201-4228, 4230-4242, 4244-4248, 4309-4323, 4413-4430, 4501-4506, 4511, 4512, 4514, 4515, 4516.1, 4516.2, 4517, 4518, 4518.1, 4519-4527, 4529-4535, 4537, 4538, 4540, 4601-4607, 4609-4614, 4701-4706	repealed	344
75-4707	repealed	39, 344
75-4708, 4709, 4801-4809, 5001-5007, 5101	repealed	344
75-5206	amended	1315
75-5310-5317, 5401-5405, 5501-5508	repealed	344
75-5601, 5602	added	45
75-5602	amended	1344
75-5603-5607	added	46
75-5608, 5701, 5702	added	48
75-5703, 5704	added	49
75-5705, 5706	added	50
75-5707	added	52
75-5708	added	55
75-5709, 5801, 5802	added	56
75-5803, 5804	added	57
75-5805	added	58
75-5806, 5807	added	60
75-5808, 5809	added	61
75-5810	added	62
75-5811	added	63
75-5901, 5902	added	64
75-5903	added	65
75-5904, 5905	added	66
75-5906, 5907	added	67
75-5908, 5909	added	68
75-5910-5913	added	69
75-5914, 5915	added	70
75-5916	added	71
75-5917, 5918	added	72
75-5919-5921	added	73
75-5922, 5923	added	74
75-5924	added	75
75-5925, 5926	added	76
75-5927, 5928	added	77
75-5929	added	78
75-5930, 5931	added	79
75-5932, 5933	added	80
75-5934, 5935	added	82
75-5936	added	83
75-5937	added	84
75-5938, 5939	added	85
75-5940, 5941, 6001, 6002	added	86
75-6003, 6004	added	87
75-6005, 6006	added	88
75-6007, 6008	added	90
75-6009, 6010	added	91
75-6011	added	92
75-6101, 6102	added	93
75-6103	added	94
	amended	444
75-6104, 6105	added	95
75-6106	added	96
75-6107	added	96
	amended	1308
75-6108	added	96
75-6109	added	97
75-6110	added	98
	amended	568
75-6111	added	98
	amended	807
75-6112	added	99
75-6113	added	100
75-6114, 6201	added	101
75-6202, 6203	added	103
75-6204, 6205	added	104
75-6206	added	106
75-6207	added	107
	amended	452, 1548
75-6208	added	111
	amended	456, 1552
75-6209	added	118
75-6210, 6211	added	119
75-6212	added	120
75-6213	added	120
	amended	463
75-6214	added	121
75-6215-6217	added	122
75-6218	added	123
75-6301-6303	added	124
75-6303	amended	1408
75-6304, 6305	added	125
75-6306, 6307	added	126
75-6308, 6309	added	127
75-6310	added	128
75-6311-6313	added	129
75-6314, 6315	added	131
75-6316	added	132
75-6317	added	133
75-6318	added	134
75-6319	added	135
	amended	591
75-6320, 6321	added	135
75-6322	added	136
75-6323	added	136
	amended	1342
75-6401	added	136
75-6402-6406	added	137
75-6407, 6408	added	138
75-6409, 6410	added	139
75-6410	amended	544, 619
75-6411	added	140
	repealed	553
75-6412	added	140
	amended	544
75-6413	added	141
75-6414	added	141
	amended	544
75-6415-6418	added	142
75-6419-6421	added	143
75-6422	added	144
75-6423	added	145
75-6501	added	146
75-6502	added	147
75-6503	added	147
	amended	1345
75-6504-6506	added	149

HeinOnline -- 1971 vol. II 2008 1971

INDEX

Title-Sec.		Page
75-6507, 6508	added	151
75-6509	added	153
	amended	545
75-6510	added	154
75-6511, 6512	added	155
75-6513, 6514	added	156
75-6515	added	158
75-6516	added	158
	amended	546
75-6517, 6518	added	160
75-6519	added	162
75-6520	added	163
	amended	439
75-6521	added	163
75-6522	added	164
75-6523	added	165
75-6524-6526	added	166
75-6527	added	167
75-6528-6530	added	168
75-6531, 6532	added	169
75-6533-6536	added	170
75-6537, 6538	added	171
75-6539	added	172
75-6601	added	173
75-6602	added	175
75-6603	added	176
75-6604	added	177
75-6605	added	178
75-6606-6608	added	179
75-6701	added	180
75-6702-6705	added	181
75-6706- 6707	added	182
75-6708-6710	added	183
75-6711	added	184
75-6712, 6713	added	185
75-6714	added	186
75-6715-6717	added	187
75-6718-6720	added	188
75-6721, 6722	added	189
75-6723, 6724	added	190
75-6725	added	191
75-6726, 6727	added	192
75-6728-6730	added	194
75-6801-6803	added	195
75-6804	added	196
75-6805	added	197
75-6806	added	198
75-6807	added	200
75-6808	added	200
	amended	437
75-6809	added	201
75-6810	added	201
	amended	1331
75-6811	added	202
75-6812-6814	added	203
75-6901, 6902	added	204
75-6903	added	205
75-6904	added	206
75-6905	added	209
	amended	1464
75-6906	added	212
75-6907, 6908	added	213
75-6909, 6910	added	214
75-6911, 6912	added	215
75-6913	added	216
75-6914	added	217
75-6915	added	218
75-6916, 6917	added	220
75-6918	added	221
75-6919	added	222
75-6920, 6921	added	223
75-6922	added	224
75-6923	added	225
	amended	547
75-6924, 6925	added	226
75-6926	added	227
75-6927	added	228
75-7001	added	229
75-7002, 7003	added	230
75-7004	added	231
75-7005	added	232
75-7006, 7007	added	233
75-7008	added	234
75-7009	added	235
75-7010	added	236
75-7011	added	236
	amended	805
75-7012	added	237
75-7013	added	238
75-7014	added	239
75-7015	added	240
75-7016, 7017	added	241
75-7018	added	242
75-7019	added	243
75-7020	added	246
75-7021	added	247
75-7022	added	251
75-7023	added	252
75-7024, 7101	added	253
75-7102, 7103	added	254
75-7104, 7105	added	255
75-7106	added	256
75-7107	added	256
	amended	943
75-7108	added	256
75-7109, 7110	added	257
75-7111	added	258
75-7112	added	258
	amended	548
75-7113	added	258
	amended	549
75-7114	added	259
	amended	550
75-7115	added	259
	amended	973
75-7116	added	260
	amended	973
75-7117	added	261
	amended	550
75-7118	added	262
75-7119	added	262
	amended	974
75-7120	added	264
75-7121	added	264
	amended	944
75-7122, 7123	added	265
75-7124	added	266
75-7125	added	267
	amended	1073
75-7126, 7127	added	267
75-7128	added	268
75-7129	added	269
75-7130	added	270
75-7131, 7132	added	271
75-7133	added	272
75-7134	added	272
	amended	551
75-7135-7137	added	273
75-7138,7201, 7202	added	274
75-7203, 7204	added	275
75-7205	added	277
	amended	552
75-7206, 7207	added	279
75-7208	added	280
75-7209	added	281
75-7210	added	282
75-7211-7213	added	283
75-7214-7216	added	285
75-7301	added	285
75-7302, 7303	added	286
75-7304-7306	added	287
75-7307, 7308	added	288
75-7309	added	289
	amended	1332
75-7401, 7402	added	290
75-7403-7406	added	291
75-7407	added	292
75-7501, 7502	added	292
75-7503-7506	added	293
75-7507-7510	added	294
75-7511-7515	added	295
75-7516-7521	added	296

HeinOnline -- 1971 vol. II 2009 1971

INDEX

Title-Sec.		Page
75-7601-7604	added	297
75-7605, 7606	added	298
75-7607	added	299
75-7608-7610	added	300
75-7611, 7701	added	301
75-7702	added	302
75-7703-7705	added	303
75-7706, 7707	added	304
75-7708, 7709	added	305
75-7710	added	306
75-7711-7714	added	307
75-7715, 7801	added	308
75-7802, 7803	added	309
75-7804	added	310
75-7805	added	311
	amended	624
75-7806	added	311
	amended	623, 624
75-7807	added	311
	amended	625
75-7808, 7809	added	312
75-7810	added	313
	amended	1207
75-7811, 7812	added	313
75-7813, 7814	added	314
75-7815	added	315
75-7816	added	315
	amended	624
75-7901	added	315
75-7902, 7903	added	316
75-7904, 7905	added	317
75-7906, 7907	added	318
75-8001	added	318
75-8002	added	319
75-8003-8005	added	320
75-8006	added	321
75-8101, 8102	added	322
75-8103	added	322
	amended	1470
75-8104	added	323
75-8105	added	323
	amended	1470
75-8106	added	323
	amended	1471
75-8107	added	324
	amended	1471
75-8108	added	325
	amended	1472
75-8109	added	325
	amended	1473
75-8110	added	326
	amended	1473
75-8111	added	326
75-8112	added	326
	amended	714, 1474
75-8113, 8114	added	327
75-8115	added	328
75-8116	added	329
75-8117	added	329
	amended	713
75-8118	added	329
75-8119	added	330
	amended	1474
75-8120	added	330
75-8121	added	330
	repealed	1436
75-8122, 8123	added	332
75-8124	added	333
75-8125	added	333
	amended	712
75-8126	added	1474
75-8201-8203	added	334
75-8204	added	335
75-8205	added	336
75-8206	added	337
75-8207-8209	added	338
75-8210-8212, 8301, 8302	added	339
75-8303, 8304	added	340
75-8305	added	340
	amended	1073
75-8306	added	340
75-8307-8309	added	341
76-8310	added	342
75-8311	added	343
75-8401-8403	added	7
75-8404-8406	added	8
75-8407, 8408	added	9
75-8409, 8410	added	11
75-8411	added	11
	amended	409
75-8412	added	11
	repealed	411
75-8413-8415	added	12
	repealed	411
75-8416	added	13
	repealed	411
75-8417, 8418	added	14
	repealed	411
75-8419-8422	added	15
	repealed	411
75-8423-8426	added	16
75-8427	added	16
	amended	1215
75-8428	added	17
	amended	409
75-8429	added	17
75-8501	added	18
75-8502, 8503	added	20
75-8504	added	22
75-8505	added	25
75-8506-8510	added	26
75-8511	added	27
	amended	1343
75-8512	added	28
75-8601	added	29
	amended	931, 1210, 1652
75-8602	added	29
75-8603-8605	added	30
75-8606	added	31
75-8607, 8608	added	32
75-8609, 8610, 8701	added	33
75-8702	added	33
	amended	1001, 1423
75-8703	added	34
	amended	1424
75-8704	added	35
	amended	1426
75-8705	added	36
	amended	1343
75-8801	added	36
75-8802-8805	added	38
76-101, 103	amended	1620
76-104	amended	1622
76-105	amended	1624
76-106	amended	1630
76-107	amended	1631
76-108	amended	1632
76-109	amended	1635
76-110	amended	1638
76-111	amended	1639
76-114	amended	1642
76-115	amended	1645
76-117	amended	1646
76-201, 208, 209	amended	1648
76-210, 222, 223	amended	1649
76-224, 225	amended	1650
76-226	amended	1651
77-121	amended	1576
77-157	amended	602
77-1002	amended	562
79-201	amended	685
79-202	amended	686
79-303, 304	repealed	826
79-414	amended	1079
79-415	amended	1080
79-603	amended	1081
79-801, 804, 806, 807, 808, 810	repealed	686
79-1202	amended	773, 823, 1083
79-2202	amended	879
79-2203	amended	881

HeinOnline -- 1971 vol. II 2010 1971

INDEX

Title-Sec.		Page
79-2205	amended	884
79-2312	amended	1087
79-2313	repealed	1087
80-1601	amended	794
80-2210	amended	1375
80-2301, 2302	repealed	594
81-204	amended	402
81-407	amended	1001
81-412	amended	391
81-414	amended	403
81-415	amended	404
81-419	amended	391, 404
81-422	amended	405
81-426, 428	amended	392
81-502	amended	392, 1219
81-606, 613, 615	amended	393
81-908	amended	1002
81-915	amended	395
81-1001	amended	1815
81-1003	amended	965
81-1113, 1702.1	amended	396
81-1703	amended	397
82-109	amended	1078
82-110	amended	1081
82-414-416	amended	864
82-417-420	amended	865
82-1002	amended	1054, 1406
82-1008	amended	1056
82-1231	amended	592
82-1914	amended	354
82-1917	amended	1240
82-1918	amended	1242
82-3001	amended	555
82-3303	amended	1271
82-3306	amended	1272
82-4002	amended	647
82-4101	amended	569
82A-101,102	added	1091
82A-103	added	1092
82A-104	added	1094
82A-105, 106	added	1095
82A-107	added	1096
82A-108	added	1097
82A-109, 110	added	1098
82A-111, 112	added	1101
82A-113	added	1102
82A-114-117	added	1103
82A-118-121	added	1104
82A-122, 201, 202	added	1105
82A-203	added	1106
82A-204, 205	added	1107
82A-206	added	1109
82A-207-210	added	1110
82A-211-213, 301	added	1111
82A-302	added	1112
82A-303	added	1113
82A-304	added	1114
82A-305, 401, 402	added	1115
82A-403	added	1116
82A-404-406, 501	added	1117
82A-502-505	added	1118
82A-506, 507	added	1119
82A-508-510	added	1120
82A-601, 602	added	1121
82A-603	added	1122
82A-604-607	added	1123
82A-608, 609	added	1124
82A-701, 702	added	1125
82A-703, 704	added	1126
82A-705-708	added	1127
82A-801-803	added	1128
82A-804-806	added	1129
82A-807, 901, 902	added	1130
82A-903	added	1131
82A-904, 905	added	1133
82A-906, 1001-1003	added	1134
82A-1004, 1005	added	1135
82A-1006, 1007	added	1136
82A-1008-1010	added	1137
82A-1101	added	1137
82A-1102-1104, 1201, 1202	added	1138
82A-1203-1205	added	1140
82A-1206, 1207	added	1141
82A-1208, 1301-1303	added	1142
82A-1304, 1305	added	1143
82A-1401, 1402	added	1143
82A-1403, 1404	added	1144
82A-1501-1504	added	1145
82A-1505-1507	added	1146
82A-1508-1510	added	1147
82A-1511, 1601, 1602	added	1148
82A-1603	added	1152
82A-1604, 1605	added	1153
82A-1606	added	1154
82A-1701-1703, 1801, 1802	added	1155
82A-1803-1806	added	1156
82A-1901, 1902	added	1157
82A-1903-1905	added	1158
82A-1906, 1907	added	1159
82A-1908, 2001-2003	added	1160
82A-2004, 2101-2103	added	1161
84-301	amended	421, 1267, 1286, 1347
84-302	amended	425, 1290
84-306	repealed	401
84-307	amended	401
84-406	amended	1680
84-708	amended	833
84-1302	amended	1351
84-1303	amended	1353
84-1501	amended	365, 1317, 1785, 1842
84-1501.4	repealed	398
84-1501.6	added	398
84-1502	amended	977, 1360
84-1601	amended	1411
84-1832	amended	354, 1185
84-1832.1	amended	1185
84-1833	amended	355, 1186
84-1835	amended	1189
84-1840	amended	1397
84-1846	amended	359, 817
84-1847	amended	810, 819
84-1848	repealed	819
84-1849	amended	819
84-1851, 1853	amended	820
84-1855	amended	360, 820, 1432
84-1855.1	added	822
84-2004	amended	1412
84-2102	amended	1305
84-2402, 2404	amended	710
84-2410	amended	711
84-2412	amended	1077
84-2601, 2602	amended	1307
84-3508	amended	1077
84-4701.1	amended	1387
84-4701.2, 4701.3	amended	1388
84-4701.5, 4701.6	amended	1389
84-4820	amended	1328
84-4902.1	amended	1876, 1878
84-4903	amended	364
84-4905	amended	979, 1336
84-4908	amended	1359
84-5606	amended	884
84-5606.30	amended	886
87-103	amended	733
87-104	amended	572
87-105	amended	1409
87-106	amended	429, 1524
87-109	amended	613
87-110	amended	570
87-111	amended	558
87-117	amended	500
87-129	amended	560
87-148	amended	1480
87A-9-403	amended	764
87A-9-404, 405	amended	766
87A-9-606, 407	amended	768
89-702	amended	1381
89-1701, 1705	amended	966
89-1801	amended	967

HeinOnline -- 1971 vol. II 2011 1971

Title-Sec.		Page
89-1811	amended	653
89-2107	amended	1057
89-2348	amended	969
89-2501	amended	970
89-2502	amended	976
89-2911	amended	1249
89-2913	amended	1250
89-3312	amended	992
89-3405	amended	1242
89-3407	amended	1243
89-3426	amended	976
90-201	amended	630
91-403	amended	858
91-502	amended	689
91-504, 505	amended	690
91-506	amended	691
91-507, 508	amended	692
91-512	amended	1391
91-523	amended	692
91-1702	amended	1576
91-3302	amended	1577
91-3906	amended	1063
91-4411	amended	406
91-4415	amended	420
91-4418	amended	426
91-4437	amended	711
91-4450	amended	427
92-206	amended	1479
92-208	amended	668
92-411	amended	1253
92-422	amended	749
92-701	amended	748
92-706	amended	1363
92-709	amended	662
92-710	added	1371
92-902	amended	667
92-1004	amended	665
92-1005	amended	666
92-1121	amended	668
92-1303	amended	779
92-1304	amended	437
92-1305	amended	436
92-1310	amended	784
92-1312	amended	784
92-1315	amended	785
92-1321	amended	792
92-1403	amended	1367
93-303	amended	1836
93-1205	amended	1221
93-1301	amended	1003
93-1304	amended	1587
93-2001	amended	733
93-2612	amended	703
93-2908	amended	750
93-5010	amended	1239
93-8625	amended	512
93-9912	amended	1577
93-100-2	amended	1003
93-701-4	amended	467
94-1436	amended	1027
94-3527	amended	448
94-35-106, 106.2	amended	1004
94-35-138	repealed	603
94-35-249	amended	746
94-35-269	amended	1338
95-618	amended	368
95-1703	amended	747

Laws of 1969

FORTY-FIRST SESSION

Chap.	Sec.		Page
238		repealed	1793
372		repealed	888
375	1, 4, 5, 6, 7, 8	repealed	1793
377	1	amended	1354
	3, 4	amended	1355
	6, 7	amended	1356

Laws of 1971

FORTY-SECOND SESSION

Chap.	Sec.		Page
296		amended	1749
333		amended	1785

HeinOnline -- 1971 vol. II 2012 1971